FOREIGN TRADE
PRINCIPLES AND PRACTICES

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PREFACE

The primary purpose in preparing this book is to bring together in one volume a discussion of the entire general field of foreign trade. It provides a comprehensive general course of study which it is hoped will be useful to individual foreign trade students conducting their studies without guidance and to the younger men and women already employed in the field of foreign trade, as well as to students who are attending foreign trade classes.

A study of the import trade as well as of the export trade is included throughout the volume, for these subjects are viewed as complementary to each other. Both branches of our overseas merchandise trade are now of very direct importance, both are necessary, and it is believed that both will gain in the future a more and more definite and significant status in the nation's economic fabric.

An attempt is made to consider both the theoretical and the practical aspects of international commerce. Part I is devoted entirely to the general principles governing international trade; Part II, to general methods of foreign trade promotion by government and private agencies; Part III, to the prevailing export and import trading organization; Part IV, to financial practices in foreign trade; and Part V, to export and import trade methods and technique.

Much of the concrete material presented was obtained from business concerns engaged in foreign trade; from financial, credit, and advertising agencies; from rail and ocean carriers and related shipping agencies; and from government and private trade promoting organizations. Indebtedness to all of the business firms, associations, and government agencies that provided us with information is acknowledged. We are particularly grateful to the Philadelphia District Office of the Bureau of Foreign and Domestic Commerce. Chapters XIV and XV, dealing with foreign agents, agency contracts, and foreign middlemen, were written for this volume by Dr. Ralph F. Breyer, Assistant Professor of Commerce and Transportation in the Wharton School of Finance and Commerce.

G. G. H.
R. L. K.

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PART I

GENERAL PRINCIPLES OF INTERNATIONAL COMMERCE

FOREIGN TRADE

CHAPTER I

THE BALANCE OF INTERNATIONAL PAYMENTS

It is believed that the several aspects of a nation's foreign trade in merchandise can best be understood if its exports and imports are visualized as items in its balance of international payments. The international balance of payments of the United States as compiled and published each year since 1922 by the Department of Commerce "is a sort of conjectural cash account of America's foreign transactions. The credit column is supposed to contain all cash claims by Americans against foreigners actually honored during the year, while the debit column contains the corresponding cash claims by foreigners against Americans."[1] Obviously, the sum total of transactions that tend to move money into or out of the country during any defined period of time includes many "invisible" items in addition to its commodity exports and imports. The "invisible" items now account for nearly one half of the nation's international business transactions. Many of them are related very directly to the exportation and importation of merchandise. All are related to commodity exports and imports at least indirectly in that they are a part of the international balance of payments and therefore exert an influence upon foreign exchange transactions and rates, gold movements, and price levels. Some of them are also related indirectly to the foreign trade in merchandise in that they may generally, yet materially, influence the market demand for commodities moving in international commerce.

The "visible" exports and imports of the international balance of payments include only merchandise, silver and gold, including currency, and in many computations silver is regarded as merchandise and is listed in the international merchandise transactions. "Invisible" exports and imports on the contrary include from 30 to 50 items, depending upon how fully they are subdivided or classified. In the 1928 and 1929 balances of international payments reproduced in Table I the commodity transactions and gold shipped or earmarked constitute "visible" items, while miscellaneous transactions, private loans, investments, and deposits are "invisible" items. The grand totals of the columns labeled "credits" and "debits" balance except for discrepancies of twelve and nine million dollars, respectively, due to errors and omissions.[2] If all visible and invisible exports and imports were included with complete accuracy the two columns would balance each other with exactness. The Department of Commerce regards gold as the balancing item because cash claims arising from commodity and invisible transactions not offset and canceled by foreign exchange operations are settled by exports or imports of gold and currency. A different method of computing the international balance of payments has been adopted in Great Britain where gold shipments are regarded as commodity exports and imports, and private capital movements are excluded. A "credit balance" is, therefore, shown, and this is considered to be available for new investments abroad.

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[1] *The Balance of International Payments of the United States in 1928*, United States Department of Commerce, p. 59.

Brief analysis of the many kinds of transactions entering into the international balance of payments of the United States of which merchandise exports and imports are but parts, will clarify somewhat the statement reproduced in Table I. Incidentally it will be noted that complete accuracy in the statistical computations of the nation's balance of international payments is quite unlikely. Many items can only be estimated, and others, although more definitely ascertainable, are contingent upon assumptions that, however reasonable, are not based upon complete certainty.

The commodity transactions which constitute the bulk of the visible items entering into the international balance of payments consist of merchandise exports and imports. The former, as recorded in 1929, comprised 52.1 per cent of the nation's total exports, visible and invisible; and the latter, 43.7 per cent of the aggregate visible and invisible imports of the United States. The merchandise exports and imports reported in

---

[2] Actual errors and omissions may be in excess of this amount, but the 1929 compilation is the most accurate that has been made and undoubtedly is significant.

Table I are those actually shipped and received during the year 1929 and are, therefore, subject to a possible error due to the assumption that all of them are the basis of cash transactions. In publishing its table the Department of Commerce recognizes that "because of open book accounts and consignments, this assumption is safe only (1) if the net sum owed abroad or due from abroad at the end of the year, on exports and imports of all kinds equals the net sum so owed or so due from abroad at the beginning of the year, and (2) if losses by Americans from bad debts and unfortunate consignments in our exports during the year offset the corresponding losses by foreigners on our imports."

Merchandise exports and imports as currently published by the Department of Commerce, moreover, include parcel post shipments and receipts only in part, and it is, therefore, necessary to estimate roughly the unrecorded parcel post exports and imports involving payments, for their effect upon the international balance of payments is the same as that of recorded merchandise exports and imports. Silver exports and imports are also included among the international commodity transactions of the United States.

Several additional "visible" items must be included in the commodity transactions of the international balance of payments. Bunker coal and oil sales to foreign vessels constitute a visible export and bunker coal and oil purchased from foreigners by American vessels, a visible import. Payments by foreign vessels in American ports for ship chandlerage, ship repairs and towage dues also constitute export items that tend to move cash to the United States, and similar payments by American vessels abroad are properly listed as imports. Vessels sold to or constructed for foreigners, and foreign vessels sold to or built for Americans still further swell the visible exports and imports of the international balance of payments. Under the heading of "other merchandise adjustments," the Department of Commerce includes further items such as bad debts and unfortunate consignments, pilferage and destruction of merchandise in transit (in certain cases), smuggled liquor, narcotics, and other articles, the probable understatement of the value of imported commodities for the purpose of evading ad valorem duties, foreign consular fees, and an estimated deduction from reported import statistics to account for home administration of American concerns producing imports in plants located in foreign countries. In the case of sugar, paper, petroleum, copper, rubber, etc., imported from American-owned enterprises located in foreign countries, the entire market price does not necessarily go abroad. In so far as profits, reserves, and the administration expenses of the home office remain within the United States, the outward flow of cash may be less than is indicated by the reported import statistics. In publishing its annual balance of international payments, the Department has assumed that the profits derived from such imports are included in the income derived from foreign investments, which is listed as an "invisible" item, but an estimated allowance is made for home administration expenses and reserves.

When all of these items for the year 1929 are added to merchandise exports and imports, the sum total of commodity exports is increased to $5,490,000,000 and commodity imports as a whole are increased to $4,756,000,000. The several commodity transactions offset each other in large part so far as the balance of international payments is concerned, foreign exchange operations to that extent making the actual shipment of gold or currency unnecessary, but there remains an export commodity balance of $734,000,000. A glance at Table I will show clearly that this balance was not settled by means of gold and currency imports. It is offset by the many invisible items of the balance of payments; or perhaps a more accurate statement would be that all transactions, visible and invisible, requiring cash settlements, enter into the international balance of payments and are, so far as possible, canceled by foreign exchange operations. Only the uncanceled balance is settled by means of gold and currency shipments.

The consolidated table published by the Department of Commerce makes it clear that the invisible transactions of the international balance of payments of the United States now run into huge sums. "Miscellaneous invisible items" listed by the Department in 1929 resulted in invisible exports amounting to an estimated total of $1,892,000,000, and in invisible imports amounting to $2,142,000,000. The $876,000,000 of interest on private investments of American capital abroad clearly affects the nation's international balance of payments in the same manner as an equivalent value of commodity exports. Both represent a cash claim against foreigners and must be settled either by means of foreign exchange brokerage transactions involving commodity or invisible imports or by means of gold imports. The $839,000,000 spent by American tourists abroad similarly is an important invisible import which is offset by American commodity exports and invisible exports or by shipments of gold. Other important miscellaneous ''invisible'' items all of which are part of the nation's total international balance of payments just as certainly as are the payments incident to merchandise exports and imports are ocean freight and passenger fares paid respectively by foreigners to American vessels and by Americans to foreign vessels; railway earnings on export and import transit traffic; payments of foreign inland freight on United States imports; immigrant remittances from the United States to foreign countries and funds brought to the United States by foreign immigrants at the time of their arrival; war-debt receipts of the United States Treasury, including interest and the repayment of principal installments; other payments made by the United States Treasury abroad and by foreign governments in the United States; charitable and missionary contributions; motion-picture royalties; insurance transactions—life, marine, fire, casualty and fidelity—; patent and copyright sales and royalties; foreign trade advertising expenditures; cablegram, radiogram, and telephone service expenditures; press subscriptions; and imports of electric power from Canada.

New private loans and investments as distinct from current interest or dividend payments also constitute invisible items in the international balance of payments. New American loans and investments abroad, although they constitute exports of American capital, are, from the viewpoint of the international balance of payments, an invisible import in the sense that they represent a current outflow of cash. Allowance must, of course, be made for foreign security sales that merely represent refunding to Americans, for American underwriters' commissions and for the extent to which foreign securities are issued below par. New foreign loans and investments in the United States similarly are an invisible export in the international balance of payments in that they represent a current flow of cash to the United States. Full allowance must also be made for current changes in pre-

TABLE

ESTIMATED BALANCE OF INTERNATIONAL PAYMENTS OF THE UNITED

(Millions

Classes of International Transaction	1928 (revised)			1929		
	Credits	Debits	Balance	Credits	Debits	Balance
COMMODITY TRADE						
Merchandise exports and imports (as reported)	5,128	4,091	+1,037	5,241	4,400	+841
Silver	87	68	+19	83	64	+19
Bunker coal and oil sales to foreign vessels	50	11	+39	46	11	+35
Ship chandling, ship repairs, and tonnage dues	45	34	+11	54	37	+17
Sale of vessels	3	3	....	3	10	−7
Unrecorded parcel post shipments	20	20	....	20	20	....
Adjustments for differences in year-end lags	....	55	−55	43	....	+43
Other merchandise adjustments	....	201	−201	....	214	−214
Total commodity trade (as adjusted)	5,333	4,483	+850	5,490	4,756	+734
MISCELLANEOUS INVISIBLE ITEMS						
Freight payments and receipts:						
Ocean and Great Lakes traffic	133	167	−34	142	208	−66
Railway earnings on transit shipments	14	40	−26	12	40	−28
Foreign inland freight on United States imports	....	20	−20	....	21	−21
Tourist expenditures:						
Canada	82	256	−174	91	284	−193
Mexican border	6	32	−26	7	38	−31
Oversea (including West Indies)	75	516	−441	82	517	−435
Ocean-borne passenger traffic (by "substitution")[1]	89	....	+89	94	....	+94
Earnings of long-term private investments:						
Received from American investments abroad	817	....	+817	876	....	+876
Paid to foreign investors in the United States	....	252	−252	....	270	−270
Earnings of short-term interest and commissions:						
Collected from foreigners abroad	76	....	+76	100	....	+100
Paid to foreigners abroad	....	107	−107	....	144	−144
Immigrant remittances	25	250	−225	24	247	−223
War-debt receipts of United States Treasury:						
Interest	160	3	+157	150	5	+145
Principal	50	....	+50	62	....	+62
Other United States Government receipts; United States Government payments; and foreign representations here	53	110	−57	60	152	−92
Missionary and charitable contributions, etc.	....	51	−51	....	49	−49
Motion-picture royalties	70	6	+64	70	6	+64
Insurance transactions	70	70	....	70	70	....
Minor miscellaneous items:						
Imports of Canadian electric power	....	3	−3	....	4	−4
Foreign subscriptions to American press	5	3	+2	5	3	+2
Patents and copyright sales and royalties; legal fees	15	15	....	15	15	....
American advertising abroad	5	48	−43	5	50	−45
Cablegrams, radiograms, and telephone services	23	19	+4	27	19	+8
Total of commodity and miscellaneous items	7,101	6,451	+650	7,382	6,898	+484

* United States Bureau of Foreign and Domestic Commerce, Trade Information Bulletin No. 698. The Balance of International Payments of the United States in 1929.

[1] Largely a deduction from American tourist expenditures.

[2] Issued outside our balance-of-payment area. Usually American statistics of public offerings include those of all Territories and possessions; although Hawaii, Porto Rico, and Alaska are parts of our customs area.

vious American and foreign investments. Thus, bond-redemption payments and sinking-fund payments received from foreigners, foreign securities resold to foreigners, and the resale to foreigners of direct investments are invisible exports in the

I

States Calendar Years 1928 (Revised) and 1929 (Subject to Revision) *

of dollars)

Classes of International Transaction	1928 (revised)			1929		
	Credits	Debits	Balance	Credits	Debits	Balance
MOVEMENT OF PRIVATE LONG-TERM CAPITAL						
New American investments abroad:						
1. Foreign securities publicly offered here (par value)[2]	....	1,484	−1,484	....	696	−696
2. Deduct for "refunding to Americans"	238	....	238	35	....	+35
3. Deduct for American underwriters' commissions	59	....	59	15	....	+15
4. Deduct for securities issued below par	63	....	63	11	....	+11
5. Add new "direct investments" abroad by Americans	....	378	−378	....	335	−335
6. Add foreign stocks and bonds bought from foreigners in small lots[3]	....	556	−556	....	588	−588
Reductions of previous American investments abroad:						
7. Bond-redemption payments received from foreigners	260	....	260	166	....	+166
8. Sinking-fund payments received from foreigners	101	....	101	110	....	+110
9. Resale to foreigners of direct investments	50	....	50	58	....	+58
10. Foreign stocks and bonds resold to foreigners[3]	451	....	+451	442	....	+442
New foreign investments in the United States:						
11. Direct investments	70	....	70	31	....	+31
12. American stocks and bonds sold to foreigners[3]	1,503	....	+1,503	1,537	....	+1,537
Reductions of previous foreign investments in the United States:						
13. Redemption and sinking-fund payments to foreigners	....	70	−70	....	77	−77
14. Purchase of American properties from foreigners	....	....	....	....	15	−15
15. American stocks and bonds bought back from foreigners[3]	....	1,015	−1,015	....	1,080	−1,080
Total of private, funded-capital items	2,795	3,503	[4] −708	2,405	2,791	[4] −386
MOVEMENT OF SHORT TERM CAPITAL						
Net change in international banking accounts, as revealed by questionnaire	....	226	−226	+13	....	+13
PURE CASH ITEMS						
Gold	561	169	392	117	292	−175
Changes in ear-marked gold	68	188	−120	128	73	+55
United States paper currency	....	....	....	....	....	....
Total of gold and currency	629	357	272	245	365	−120
Grand total, all items	10,525	10,537	[5] −12	10,045	10,054	[5] −9

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[3] One of four important items whose amounts are extremely uncertain. It is supposable that most of the net discrepancy in the entire statement (arising from errors and omissions) results from errors in this group of items. Accordingly the original estimates of these items were all altered according to a uniform ratio which would eliminate 60 per cent of the net discrepancy in the entire statement. Before the items were thus altered, the net discrepancies for the years 1928 and 1929 were respectively −31 and −23.

[4] Estimated "net export of long-term private capital."

[5] Discrepancy, due to net errors and omissions. Total errors and omissions would probably be much greater, since they tend to offset one another.

international balance of payments of the United States, while redemption and sinking-fund payments to foreigners and American securities repurchased from foreigners are invisible imports.

The total outward movement of private long-term capital in 1929 was estimated by the Department of Commerce as $2,791,000,000 and the total inbound movement as $2,405,000,000. The difference of $386,000,000 which represents the net outward flow of cash incident to private long-term capital was smaller than during other post-war years. In 1928 it amounted to $708,000,000 which almost equaled the amount by which American merchandise exports exceeded merchandise imports and provided an important basis for the settlement of this excess of merchandise exports.

Still another group of invisible items enter into the international balance of payments, namely, the unfunded items of indebtedness due to the fact that many international transactions are made on the basis of open account credit arrangements or by means of short-term credit instruments that do not require the payment of cash until a date subsequent to the defined period for which the balance is being computed, and also to transactions which "though promptly settled in cash, do not involve the actual transfer of cash within the year under review, since the cash may remain for a time in a bank abroad."[3] An effort is therefore made to ascertain the net change in the nation's international banking accounts during the year under review and to include this net change either as an invisible export or import according to whether it represents an inflow or an outflow of cash. In 1928 the net change was listed at $226,000,000 on the side of invisible imports, and, in 1929 at $13,000,000 on the side of invisible exports.

The combined total of commodity and invisible imports during 1928 exceeded the combined total of commodity and invisible exports by $284,000,000. The excess of invisible imports more than offset the excess of merchandise exports over merchandise imports, and it exceeded the excess of total commodity exports over total commodity imports. The several exporters, importers, tourists, investors, borrowers, etc., each received or paid out the cash owing to them or owed by them, but foreign exchange operations so balanced the many visible and invisible items of the international balance of payments that but a small residue was settled by means of gold shipments. The excess of gold shipments over gold imports during the year, except for a small discrepancy due to errors and omissions, balances the excess of cash claims due to foreigners on account of combined visible and invisible imports. In 1929 the combined total of commodity and invisible exports exceeded the combined total of commodity and invisible imports by $111,000,000, a figure which is to be compared with the inbound gold movement shown in Table I.

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[3] *The Balance of International Payments of the United States in 1926*, United States Department of Commerce, p. 45.

It is not, however, to be assumed that international gold shipments are made solely for the purpose of settling transactions not adjusted by foreign exchange operations. Total gold shipments, including changes in ''earmarked'' gold, amounted to $629,000,000 during 1928 as against $357,000,000 of gold imports, and in 1929 gold shipments and receipts amounted to $245,000,000 and $365,000,000 respectively. Some gold shipments are accounted for by the desire of foreign banks to increase their gold reserves quite aside from current international trade settlements; and this desire also results in the earmarking of gold, *i.e.*, the gold reserve requirements of a number of countries now permit central bankers to convert foreign exchange holdings into foreign gold holdings and, without incurring gold shipping expenses, to count such foreign gold holdings the same as gold actually held in their vaults. Some gold shipments are also accounted for on a ''straight exchange basis,'' *i.e.*, certain foreign currencies are quoted above mint par, the premiums at which they are quoted tending to make gold shipments profitable. Again, as was stated by the Department of Commerce in 1926:

> Much of the gold imported is received on deposit, or for conversion into foreign exchange; and much of our gold exports were withdrawals of deposit. Whenever a foreign central bank finds that its gold stocks exceed the minimum reserve against its issue and deposits, it is likely to deposit the excess gold in an American bank. Indeed, in certain countries the central and other banks are permitted to carry part of their minimum gold reserves in foreign exchange. Such a deposit draws interest; whereas if the gold is held in the foreign banks it is an unproductive asset. Our country being most firmly on the gold basis foreign banks run no risk here of being confronted by a gold embargo, should they have need to withdraw their gold. This consideration seems to outweigh the fact that our interest rates [1926] are lower than those of most gold-standard countries. With this strictly deposit business going on, and with the present immense operations in international credit, both short-term and long-term, it is evident that neither do international gold

shipments reflect exclusively the settlement of international accounts, nor are they as important as formerly in the settlement of such accounts.[4]

It should be noted that the international balance of payments includes only transactions which tend to transfer cash into or out of the country during the period under review. Important international transactions are therefore excluded because they do not affect the current international balance of payments. When, for example, the debts owing the United States Government by foreign governments were scaled down very substantially by the several debt-funding treaties, the huge foreign property losses resulting were excluded from the international balance of payments because they were not cash transactions and no cash will ever be received to cover the amount of the debt cancellations. Depreciation of private foreign investments similarly do not appear in the international balance of payments because they are not cash transactions. Nor is the appreciation of private American investments abroad included currently, for no international cash movement is involved until the appreciated investments are liquidated at some later date for the purpose of actually returning the proceeds to the United States. The exchange of patent rights for securities likewise does not result in an international movement of cash at the time of the transaction and is properly excluded.[5] When, however, the foreign holder of the American securities so obtained disposes of them to an American purchaser for cash, the amount of the transaction will become an "invisible" item in the international balance of payments of the year during which the transfer of cash is made.

Except for transactions of this character, the international balance of payments conveys a composite picture of a nation's international trade relations. Such a picture is important to the student of foreign commerce. It demonstrates to him that merchandise exports and imports in the matter of their settlement are associated with many other international transactions. It creates a correct basis for an appreciation of the principles governing foreign commerce. It is, indeed, essential to an understanding of subsequent chapters dealing with the theory of international trade, and with the direct and indirect relationships existing between the more important visible and invisible transactions currently conducted between this nation and the foreign countries of the commercial world. As was succinctly stated in 1927 by Mr. Herbert Hoover, then Secretary of Commerce: "Our foreign trade is now in an era of big invisibles. The time when our international trade situation could be judged approximately by the balance of merchandise trade and the gold movement is quite past. All three of the invisible items just mentioned (private investments abroad, tourist expenditures, and the yield of our previous foreign investments) were last year much larger than the balance of our merchandise trade; and several other invisible items were of comparable importance."[6]

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[4] *Ibid.*, p. 42.

[5] *Ibid.*, 1928, p. 62.

The several items comprising the international balance of payments of the United States are, of course, constantly changing. The balances of 1928 and 1929 are presented in detail because they are the latest that have been reported by the Department of Commerce and are more accurate than the statements published during the preceding six years. They are representative of the present trade era and also serve the purpose of defining statistically the term "international balance of payments." A less comprehensive account of the principal commodity and invisible transactions causing a flow of cash between the United States and foreign nations during earlier trading periods is given in Chapter III.

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[6] *Ibid.*, 1926, p. iii. The trade balance of 1927 when this statement was made was $681,000,000. In 1928 it increased to $1,037,000,000 and in 1929 it amounted to $841,000,000.

CHAPTER II

FOREIGN TRADE AND NATIONAL WELFARE

The value of foreign trade to individual producers, financial institutions, merchants, carriers, and other business concerns is not difficult to understand. They are interested in foreign trade because of the direct or indirect profits derived by them. Producers not only expect a direct profit on the commodities sold abroad, but look upon foreign markets as a basis upon which they can increase their aggregate production beyond the limits set by domestic commerce. Export markets enable many of them to keep their labor and capital employed more fully and continuously, to expand their plants more rapidly than domestic commerce alone would warrant, to realize the reduced costs so frequently resulting from mass production, to steady their prices or to distribute their sales so widely that the effects of business depressions will be reduced to a minimum. Some industries regularly export a large proportion of their output. Approximately 35 per cent of the nation's output of kerosene, 30 per cent of its lubricating oils, 45 per cent of its copper, 20 per cent of its agricultural machinery, 25 per cent of its sewing machines, nearly 40 per cent of its typewriters and over one half of its motor cycles are sold abroad. Many important agricultural products—cotton, leaf tobacco, wheat, rye, and lard—are exported on such a pronounced scale that the relationship between foreign trade and their production and distribution is clearly discernible.

Most manufacturing industries are less dependent upon foreign markets. Many of those now engaged in the export trade do not export more than from 5 to 15 per cent of their output. It is in such industries that the importance of the export trade is sometimes underestimated. The small percentage of total output sold abroad is not a true measure of the effect it may have upon an industry. A loss of 10 per cent of an industry's market may spell the difference between prosperity and depression. The last small percentage of output and sales may have an important effect upon an industry's profits and upon its ability to operate its plants to capacity. If this 10 per cent of additional market is provided by the export trade it is readily discernible why an increasing range of industries is so keenly interested in foreign sales.

It is worthy of note that the nation's total volume of business during periods of industrial depression and prosperity frequently does not vary by more than 20 per cent and that the average reduction from normal business during a depression may be less than 15 per cent.[1] Railroads and other inland carriers, banks and other financial and credit institutions, insurance companies and underwriters, terminal agencies of many kinds, and many trading concerns are also engaged both in domestic and foreign commerce and are, therefore, interested in the direct returns obtained from their foreign trade transactions and also upon the effect that even a small percentage of foreign trade may have upon their profits as a whole. Other concerns are engaged largely or wholly in foreign trade and are guided directly by their foreign trading profits. This is more commonly the case with ocean freight forwarders and brokers, ship brokers, export and import commission houses, merchants, brokers, or manufacturer's agents and many of the terminal agencies that constitute integral parts of the mechanism of foreign trade.

The interest of individual business concerns in foreign trade is of course not limited to the export trade. From their standpoint the import trade is also a consideration. Many producers are at least partly dependent upon imported raw materials. Many types of importers make a regular business of importing raw materials, foods, and partly manufactured products or finished manufactures. Inland and ocean carriers, financial institutions, forwarders, terminal agencies, etc., also derive a profit from these imports, and their interest in foreign trade clearly is not limited to the export trade.

There is more misunderstanding concerning the importance of foreign commerce to the nation as a whole than with respect to its importance to individual foreign trading concerns. The enlightened business man is interested in the national welfare as well as in the profits of his enterprise, and the Government and general public as well as the business community are concerned with commercial policy. Wherein lies the value of international commerce to a particular country? How will increased foreign trade benefit the United States as a nation?

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[1] J. S. Alexander, "Why We Must Have Foreign Trade" (pamphlet), May 10, 1927.

THE FORMER MERCANTILIST DOCTRINE

The most prevalent misconception is that the nation's gain from foreign commerce springs from its "favorable balance of trade," *i.e.,* from the excess of exported over imported commodities. This balance of trade or mercantilist theory which prevailed more generally during the sixteenth, seventeenth, and eighteenth centuries has long since been discarded by economists and by enlightened statesmen and business men. The mercantilist doctrine was based upon a web of economic fallacies. Failing to realize that national wealth is derived basically from the production and distribution of commodities and the performance of services, the mercantilists overemphasized the precious metals as the basis of wealth, and they regarded the excess of exported over imported commodities as the sole national gain from international commerce, because they believed that this excess would come to the nation in the form of gold. Many devices were employed to encourage exports and discourage imports. Aside from the prevalent belief that national wealth and gold or other precious metals are synonymous, the balance of trade doctrine was discredited because it failed to take into account the invisible items of the international balance of payments (referred to in the preceding chapter), because it did not connect the general relationship between continued gold imports and commodity prices, and because it failed utterly to realize that trade may be, and usually is, a matter of mutual advantage to the importing and exporting nations. As in case of individual trading relations, both buyer and seller in international commerce may gain.

The invisible items of the international balance of payments were comparatively so small during the earlier years of mercantilism that failure to take them into consideration at that time is not surprising. Their importance during later years made it clear that settlement for an excess of exported commodities does not necessarily take the form of gold imports and also that a nation's imports may exceed its exports of commodities without in any way jeopardizing its commercial prosperity or reducing its gain from international commerce. A nation may, indeed, be so situated in its business relations with the rest of the world that its imports must exceed its exports. An excess of imports may provide the basis that makes possible the receipt of interest and dividends on foreign investments, of payments for services performed in international commerce, or of returns from other invisible items that add to the aggregate gain arising from a nation's total international business relations. England, for example, has for many years imported foreign commodities in excess of her export trade; the excess of imports being regarded as a necessary factor in the nation's balance of international payments and a source of financial gain. The exports of the United States, on the contrary, have for some years exceeded her imports. Both nations have gained from their international commerce.

Whether the exports or imports of a particular country show an excess depends upon its position as a debtor or creditor nation, the position of the invisible items entering into its balance of international payments, and the stage of its economic development. A borrowing nation will usually at first have an excess of imports, the borrowed funds being received primarily not in the form of gold imports but in the form of imported commodities of commerce. Later it usually will have an excess of exports, for during the period of repayment the borrowed funds will be returned mainly in the form of exported commodities. Conversely, a creditor nation will at first usually have an excess of exports, and later, during the period of repayment, an excess of imports. The change from an excess of exports to an excess of imports may occur even before the period of principal repayments is reached, for interest payments must be made to the creditor nation, and when they are no longer offset by new loans the relationship between exports and imports may be revised. But the exact status of a nation's "favorable" or "unfavorable" balance of trade at any particular time in the future cannot be forecast, for all of the invisible items of its international balance of payments are pertinent factors, and many of them may undergo changes.

A nation's export trade, moreover, is limited by its ability to provide a surplus over and above the requirements of domestic commerce, by the ability and willingness of foreign markets to consume this surplus, and by the ability and willingness of the exporting nation to import foreign products. The extent to which it needs to import foreign commodities, in full or partial payment for exports, depends upon the status of the invisible items of its international balance of payments. The mercantilists' balance of trade theory clearly does not agree with the experience of modern trading nations and the known interrelations of the several items comprising the international balance of payments.

Payments for an excess of exports do not necessarily take the form of gold imports, and if they did cause a long-continued inflow of gold the effect upon the gold importing nation's international commerce would be to check its exports. Although every increase or decrease in the gold supply of a country is not followed promptly by a change in commodity prices, still, in the long run, a relationship between a gold standard nation's supply of gold and its general level of commodity prices is established. The general level of commodity prices in the gold importing country would tend to advance, while the general price level in the gold exporting country would tend to decline. The enhanced commodity prices of the former nation would, therefore, tend to stimulate its commodity imports and check its commodity exports. If the mercantilists' belief that gold moves freely between nations in the settlement of trade balances were sound, the nation's gold imports would then decline and it would soon be exporting gold to settle an ''unfavorable'' trade balance. There would be an endless chain of increasing and declining prices, and of changing relationships between commodity exports and imports and between gold imports and gold exports.

INTERNATIONAL DIVISION OF LABOR

The gain resulting from international commerce does not result from the acquisition of precious metals; nor is it derived from commodity exports alone. Imports and exports are mutually advantageous and, indeed, necessary to modern economic life. Both are essential items in the total balance of international payments, both are related to the invisible items of this balance, and they are also related to each other. Both are directly essential to a nation's well-being, for no nation is or could advantageously be self-sufficient. The division of labor principle, which has been applied so effectively within every modern nation, is also in a large measure applicable between different nations. Different nations or sections of the world can advantageously produce certain commodities, while importing other commodities from abroad. Foreign commerce—export and import—makes possible this international division of labor in the production of commodities. The same principle is also applied to some extent in the performance of services such as the lending of capital, the performance of steamship services, or the writing of insurance.

A nation's economic activity does not advantageously cover the entire range of necessary and desired commodities and services. Many services are necessarily local in character and must be performed within each separate country, and certain commodities are also local or domestic in character.[2] Market milk, for example, because of its perishable nature and the necessity of exceptionally prompt deliveries, is produced in the general vicinity of its markets. Increased demand and expedited transportation have extended its sources of supply to substantial distances from the larger centers of population, but market milk does not enter into the overseas trade of the United States. Commodities such as ordinary sand, gravel, bricks, etc., are largely domestic in character because they are so bulky or heavy in proportion to their value that transportation costs largely bar them from overseas commerce. Such commodities are produced within each nation requiring them and their prices are not dependent upon international considerations of supply and demand. Many other industries, however, produce commodities that are international in character because they are exported and imported and because their prices are influenced by international considerations.

Climatic conditions or the presence of particular national resources may cause certain nations or particular sections of the world to produce particular commodities for domestic consumption and also for exportation to foreign countries in which the absence of proper climatic conditions or natural resources largely or wholly prevents the production of such commodities. Many other articles of international commerce, however, are of such a character that they might be produced in all or most of the countries of the commercial world. International division of labor in their production depends largely upon cost considerations. Except in so far as tariff or other Government restrictions become factors in a nation's industrial development, each nation will tend to produce those commodities of international commerce that can be produced at costs lower than the total costs incident to their importation from abroad. Not only labor costs are included in the governing cost of production, raw material and fuel costs, capital costs, the extension and efficient utilization of machinery, effective management, the possible reduction of costs per unit under a régime of mass production, and transportation and delivery costs—all are considerations entering into the determination of whether an industry can advantageously be established in a particular nation.

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[2] See F. W. Taussig, *International Trade*, Chap. V.

COMPARATIVE COST PRINCIPLE

It does not follow, however, that a nation will produce within its own boundaries every commodity in the production of which it has a cost advantage in comparison with other countries. It may, indeed, import certain products that could be produced at favorable costs or at costs no higher than the cost of importing them from abroad. Modern economists are wont to say that each nation will establish those industries in which it has the "greatest comparative advantage" in cost of production. Commodities in the production of which it may have a cost advantage, but one comparatively less than that obtaining in the production of other commodities, may be imported. Division of labor in international commerce is enhanced substantially, for each nation's industries of the kind producing wares that are exchanged in international trade are largely limited to those having the greatest comparative cost advantage.

It is these industries that are best adapted to the conditions prevailing in a particular nation. The international division of labor and comparative cost principles imply it to be sound national policy that labor and capital should be devoted to those industries in ever increasing quantities, rather than that they should be employed in the production of all commodities having a possible cost advantage over imported foreign products. The industries best adapted to conditions prevailing in the United States should be equipped to pay the highest wages to labor and the highest profits to capital employed; they should result in the highest standard of living, and in favorable prices to the consuming public.

Were it not for foreign trade the continued development of the range of industries best adapted to the conditions prevailing in the United States would obviously be impossible. Unless they regularly exported their surplus output, their growth in the future would be limited by the requirements of the domestic market, and the tendency of labor and capital would be to spill over into industries having a smaller comparative cost advantage. Were it not for the import trade, the development of industries in the United States having a smaller comparative cost advantage would become necessary, and domestic requirements would also compel the production of an increasing range of other commodities, regardless of unfavorable production costs.

SURPLUS PRODUCTION PRINCIPLE

Although many of the industries of any particular nation producing exportable commodities (except in so far as tariff or other governmental policies tend to create certain industries not having the greatest comparative advantage in cost of production) are determined largely by the division of labor and comparative cost principles, it does not follow that every industry having favorable comparative costs is actively engaged in the export trade. Nor does it follow that all of the industries due to particular climatic conditions or possession of certain natural resources promptly engage in the export trade from the moment of their establishment.

The principles discussed above determine the establishment of the industries producing exportable products, but they do not determine the time when they will begin to export their commodities in appreciable quantities. An industry may be of the type that has the greatest comparative advantage in cost of production and yet it may undergo many years of development before it will regularly export a substantial part of its output.

Experience has shown that no industry will produce largely for export so long as the domestic market readily absorbs its gradually increasing output. When the domestic market is saturated to the extent that further growth is retarded, or price demoralization due to lack of an adequate domestic market is imminent, an industry (provided it produces exportable products) begins to produce a permanent surplus for exportation. This point of surplus production determines the time when an industry having a comparative cost advantage enters the export trade in a permanent way. Before this point is reached the prices readily attained in the domestic market are usually sufficient to keep the entire output of the industry out of the channels of international commerce. Additional foreign competitive products may, indeed, be imported until the output of the nation's own industry is fully adequate to meet domestic requirements. Many of the industries of the United States, iron and steel, farm machinery, automotive, mineral oil, cotton textiles, etc., are now regularly producing a surplus for export, some having reached the point of exportation sooner than others. Still other industries are not yet interested in the export trade, but may attain the point of surplus production at some later date in their development. A number of American industries producing exportable products may never export an appreciable part of their output because of their inability to produce a surplus over and above domestic requirements, and it is quite conceivable that certain of our exporting industries may in the future produce a smaller surplus and ultimately withdraw from the export markets.

The principle of surplus production does not imply that no products whatever are exported by an industry until it produces a permanent surplus. It may at times attempt to export a temporary surplus; or prices in domestic and foreign markets may temporarily be out of alignment so as to encourage exports, and there have always been export commission houses and other middlemen who will fill any foreign orders that they may obtain. Specialties not produced elsewhere, especially, may be exported to some extent before a clear surplus is produced, because of the activities of middlemen or because they are sought by foreign buyers. But the quantities exported are usually small and irregular until a permanent surplus available for exportation is produced, and the producing industry usually does not become directly and keenly interested in export trade promotion until the point of surplus production has been reached or is imminent. An industry may, of course, discount the time when it will be producing a substantial export surplus, so as to place itself in a favorable position for exportation in the near future when it anticipates the production of a permanent surplus.

NEED FOR TRADE PROMOTION

The division of labor and comparative cost principles and the principle of surplus production should not mislead the reader into the erroneous assumption that exports require no trade promotion. It is too frequently assumed that the products of an industry having a comparative cost advantage and having reached the stage of surplus production will flow to foreign markets automatically without effort on the part of the nation's exporters. In this respect foreign and domestic commerce are alike. The amount that can be produced advantageously depends upon the ability of the industry to produce and also upon market demand. Unless foreign markets can be developed an industry cannot produce a large and growing export surplus. Many exportable products may be wholly or largely dispensed with by potential importing countries, and the foreign demand even for products that are commonly regarded as necessities may be kept at a minimum in certain foreign countries because of low purchasing power. But the foreign market demand for many products is subject to stimulation by means of effective trade promotion and efficient sales methods. If left to itself the market demand for many kinds of exportable products would doubtless seriously limit the production of an export surplus.

Nor is it proper to assume that the division of labor and comparative cost principles result in the allotment of industries in such a manner that each nation attains a monopoly in the production of particular commodities. The operation of these basic principles is not so specific as to preclude international competition. Most of the important general or standard manufactured products now produced for export in the United States are also produced for export in Great Britain and the industrial nations of Europe; some of them are also produced for export elsewhere, as in Canada and Japan, and smaller quantities are produced for domestic consumption in many other parts of the commercial world. Exportable farm products are similarly produced for export in a number of countries, and most other countries produce some of them for home consumption. The international division of labor is less specific than national boundary lines. It does not provide each nation with exclusive industries and compel all other nations to import from them; rather it results in agricultural nations or larger regions of the world and sections producing mainly raw materials in contrast with industrial nations or regions, the former producing a heavy surplus of farm products or raw materials for exportation to industrial nations and the latter producing a large surplus of manufactures for exportation to non-industrial regions. A nation such as the United States may, of course, produce certain farm products and raw materials as well as certain manufactures for export, for international division of labor is regional rather than national in scope. The cost advantages of regions located in different nations in the production of particular commodities are not so widely divergent as to prevent several countries from producing them for export. The problem of most American export industries is not only the development of foreign market demand for commodities of the kind produced by them but also to meet the competition of rival export industries located in other regions.

International commerce is by no means limited to trade between industrial regions and regions producing agricultural products or raw materials. There is much interchange of manufactures between the several industrial nations. Some of this is directly in accord with the division of labor principle, the interchange consisting of entirely unlike manufactured products, or of like products of substantially different quality. Although the United States, for example, has a large cotton textile industry which produces heavily both for domestic consumption and for export, substantial quantities of distinctive cotton textiles of high grade continue to be imported from Great Britain and the industrial countries of Europe. Some of the interchange of manufactures between industrial nations, however, consists of competitive products. The division of labor between the industrial nations does not preclude the establishment of industries suffering under the handicap of a slight cost differential, and costs may be substantially alike in several regions and countries. Not all industries, moreover, are established on the basis of favorable comparative costs, or on the basis of patents or exclusive industrial information. The protective tariff policies of many nations, for reasons that will be discussed subsequently, encourage industries some of which do not have the advantage of favorable costs. When in such instances, the tariff wall is not prohibitive, low cost nations may find a limited market.

NATIONAL GAIN FROM EXPORTS AND IMPORTS

The clearest gain derived by a nation from its export trade arises in case of such of its industries as have the greatest comparative cost advantage, for it is these industries that are best adapted to conditions as they exist in the nation, and their continued growth and prosperity after the point of surplus production is reached depends upon the development of export as well as domestic markets. There may also be a national gain in the case of other industries having a cost advantage, although it is not clear that a nation necessarily benefits by establishing all of them. The exportation of the surplus output produced by industries acquired by a nation because of distinctive climatic conditions or the possession of particular natural resources may result in a clear national gain, for such industries may also be well adapted to prevailing conditions, and their continued growth may depend very directly upon exportation to available foreign markets. It does not, of course, follow that every industry favored by climatic conditions should or will be developed to the exclusion of industries not so largely dependent upon climatic conditions, or that a nation should deplete certain of its natural resources by exporting huge quantities that could to advantage be conserved for future use within the nation.

The greatest direct national gain from the import trade arises from the acquisition at favorable prices of commodities that are advantageously produced abroad, and of many raw materials and foods the production of which is largely or wholly limited to foreign regions by climatic conditions or the location of natural resources. Great indirect national gain also results from the import trade because imports are usually essential to the settlement of export bills, payment coming to the exporting nation largely in the form of imported commodities. This relationship is sometimes stated in reverse fashion, exports being regarded as desirable and necessary as a means of acquiring imported commodities. It may be stated either way; exports and imports are necessary complements to each other and both are essential to a nation's prosperity. Imports, moreover, are necessary to keep foreign exchange rates in alignment. Both imports and exports are essential parts of a nation's balance of international payments, and without them the transactions resulting in the invisible items of this balance of payments would be seriously retarded or very largely prevented. Imports are also necessary as return cargoes for the ocean carriers who transport a nation's exports to foreign markets. The cargoes moving inbound and outbound are seldom equal in volume, but unless there were reasonably large return cargoes ocean carriers would be handicapped in the performance of an adequate service and would of necessity derive their revenues largely from their export cargoes.

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CHAPTER III

IMPORTANCE OF FOREIGN TRADE TO THE UNITED STATES

Although the foreign trade of the entire commercial world is governed by the general principles referred to in the preceding chapters, the importance of foreign trade to the several nations necessarily varies. None of the countries that now so largely interchange its surplus commodities approaches self-sufficiency, but it is well established that some of them are more largely dependent upon foreign imports than others, and that the industries of some countries are less dependent upon foreign markets than those of other countries. The United States is less dependent upon foreign sources of supply than the industrial nations of western Europe. Within the United States there is an exceptionally wide range of resources: agricultural, mineral, forest, and maritime. There is a wide range of climatic conditions, a large population with an unusually high purchasing power, a large and efficient supply of labor, a vast supply of capital, a high degree of managerial skill and energy, and efficient transportation services. These conditions have made possible the development of a wide range of industries.

The United States is both an agricultural and an industrial nation—the range of our manufacturing industries, indeed, is constantly widening—and the nation is also a substantial producer of forest and marine products. Some of these industries were the direct result of existing natural resources; some of them found their origin in inventive genius, knowledge of productive processes and patent rights; others were established on the basis of favorable comparative costs, and the range of industries was influenced by the historic protective tariff policy of the United States Government.

None of the industrial countries of western Europe can so largely depend upon home production to meet its consumption requirements. Great Britain is particularly dependent upon outside food supplies; and lack of natural resources compels that nation to import mineral oils, cotton, iron, copper, wool, tobacco, hides and skins, and lumber. Conversely, many other countries such as the Latin-American countries, Australia, South Africa, etc., in which manufacturing industries are not so largely developed and which produce mainly farm products, forest products, mineral products, or other natural products, are compelled to depend far more generally than is the case in the United States upon imported manufactures.

American industries similarly are not so largely dependent upon foreign markets as are those of many other countries. Many of the industries of western Europe must of necessity produce an export surplus in order to make possible the heavy importation of food supplies and raw materials. Their exports provide the principal basis of international settlement for the imports so essential to factory production and national welfare. The nonindustrial regions of the world similarly must produce a heavy export surplus of farm products and natural resources in order to pay for their imports of manufactures. The home markets of many of these countries, moreover, are too small to readily absorb so large a portion of the output of their major industries as is regularly absorbed in the United States.

The export trade is comparatively less important to the United States than to many other countries both because the nation is relatively more self-contained in its home production and because its industries are blessed with an immensely large home market. The nation's import trade, important though it undoubtedly is, is comparatively less compelling because of this same relatively high degree of self-sufficiency in production, and, during the present stage of the nation's economic development, also because of the huge invisible items of the international balance of payment that make possible a great excess of merchandise exports over merchandise imports. The increase of new American loans and investments abroad, the repurchase of American securities from foreigners, the heavy foreign expenditures of American tourists and foreign remittances by our immigrant population are at present particularly important in this respect.[1]

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[1] *See* Chapter I for details of the present international balance of payments.

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The comparatively greater dependence of a number of foreign nations upon exports and imports by no means signifies that foreign trade is unimportant to the United States. Our foreign trade has attained vast proportions and there can be no doubt but that our commodity exports and imports will and must continue to grow in the future. The division of labor and surplus production principles are operative in the United States as elsewhere. It is only that our nation is comparatively more self-contained in the possession of an unusually large and expanding home market.

TABLE II

Merchandise Exports, Imports, and Balance of Trade*

(Data covering period beginning July 1, 1891, and ending Dec. 31, 1929)

(Values in millions of dollars)

Yearly Average or Year	Merchandise				Excess of Exports (+) or Imports (−)		
	Exports		Total Imports	Per Cent Imports are of Exports	Merchandise	Gold	Silver
	Total	Domestic					
1891–1895	892	876	785	88.0	+107	+38	+20
1896–1900	1,157	1,136	742	64.1	+416	−24	+27
1901–1905	1,454	1,427	972	66.9	+482	+1	+23
1906–1910	1,779	1,751	1,345	75.6	+434	−15	−14
1911–1915	2,371	2,332	1,712	72.2	+658	−3	+23
1915–1920	6,521	6,417	3,358	51.5	+3,163	−149	+79
1921–1925	4,397	4,310	3,450	78.5	+947	−265	+10
1910–1914 (fiscal)	2,166	2,130	1,689	78.0	+477	+17	+20
1921	4,485	4,379	2,509	55.9	+1,976	−667	−12
1922	3,832	3,765	3,113	81.2	+719	−238	−8
1923	4,167	4,091	3,792	91.0	+375	−294	−2
1924	4,591	4,498	3,610	78.6	+981	−258	+36
1925	4,910	4,819	4,227	86.1	+683	+134	+35
1926	4,809	4,712	4,431	92.1	+378	−98	+23
1927	4,865	4,759	4,185	86.0	+681	−6	+21
1928	5,128	5,030	4,091	79.8	+1,037	+392	+19
1929	5,241	5,157	4,400	84.0	+841	−175	+19

**Commerce Reports*, February 10, 1930.

In 1929 our domestic industries as a whole added to their domestic market foreign sales amounting to $5,157,000,000, and $84,000,000 of foreign products were re-exported. This represents an increase in terms of value of 142 per cent over that of the pre-War period, 1910 to 1914. In 1928, when domestic exports were valued at $5,030,000,000 it was estimated that the quantity of merchandise exported represented an increase of 65 per cent over the pre-War year 1913. Average annual exports of merchandise during the five-year period ending with 1900 were valued at but $1,157,000,000, and those of the five years ending with 1880 at $677,000,000.

TABLE III

SHARE OF UNITED STATES IN IMPORTS AND EXPORTS OF LEADING COUNTRIES*

Data for each country cover calendar years, except for Canada, which is the fiscal year ended March 31, following the year stated, and for Australia, which is the fiscal year ended June 30, except for 1913.

(Values in millions and tenths of millions of dollars)

Country	Exports to United States						Imports from United States					
	Value			Per Cent of Total Exports			Value			Per Cent of Total Imports		
	1913	1925	1928	1913	1925	1928	1913	1925	1928	1913	1925	1928
Argentina	24.4	65.4	[1]66.5	4.7	8.3	[1]9.1	72.5	188.5	[1]186.9	14.7	23.5	[1]24.7
Australia	12.6	42.1	[2]89.4	3.5	5.7	[2]13.0	53.1	180.6	200.9	13.7	24.6	25.1
Belgium	20.5	67.1	67.5	2.9	9.6	8.1	80.3	105.0	81.0	9.0	12.3	9.3
Brazil	101.8	221.3	216.0	32.2	45.1	45.4	50.9	102.3	117.5	15.7	24.8	26.6
Canada	163.4	475.0	500.2	37.9	36.1	36.7	396.3	609.7	868.1	64.0	65.8	68.6
Ceylon	12.1	51.1	[2]36.1	16.6	29.8	[2]23.0	.8	3.2	[2]5.1	1.3	2.5	[2]3.5
Chili	30.4	88.4	[2]63.2	21.3	39.2	[2]31.3	20.1	41.0	[2]38.4	16.7	27.8	[2]29.7
China	27.5	120.2	90.3	9.3	18.4	12.8	25.9	119.7	145.9	6.0	14.8	17.0
Colombia	14.7	68.6	[1]94.5	44.5	82.2	[1]85.9	7.4	42.9	[1]52.2	26.7	49.2	[1]47.9
Cuba	131.2	264.2	202.5	80.0	74.6	72.8	75.3	187.2	128.9	53.7	63.0	60.8
Czechoslovakia	......	22.4	34.6	......	4.0	5.5	......	33.1	34.0	......	6.3	6.0
Denmark	2.1	2.4	2.7	1.1	.6	.6	23.3	71.2	60.9	10.2	12.4	13.1
Egypt	12.3	41.7	30.5	7.9	14.2	10.9	2.6	10.5	13.4	1.9	3.6	5.2
France	81.6	147.6	130.6	6.1	6.6	6.5	173.5	304.2	243.1	10.7	14.3	11.6
Germany	170.0	143.7	189.9	7.1	6.9	6.6	407.6	522.7	483.6	15.9	17.8	14.4
India, British	69.6	141.3	140.3	8.9	9.8	11.7	14.8	50.3	61.5	2.5	6.1	6.8
Italy	51.7	75.1	80.1	10.7	10.3	10.5	100.9	245.8	211.2	14.3	23.6	18.2
Japan	91.4	413.0	383.4	29.2	43.6	41.9	60.6	272.9	290.3	16.8	25.8	28.5
Malaya, British	27.4	361.1	198.9	13.7	49.9	42.0	3.9	22.4	15.5	1.8	4.0	3.2
Mexico	[3]113.5	255.3	[2]196.2	[3]77.2	75.7	[2]66.3	347.6	135.6	[2]109.9	[3]50.6	70.2	[2]67.2
New Zealand	4.4	20.7	[4]20.7	4.0	7.9	7.6	10.3	42.9	39.9	9.5	16.9	18.3
Netherlands	......	28.6	27.7	......	3.9	3.5	......	110.9	106.8	......	11.2	9.9
Netherland E. I.	5.4	101.0	[2]86.7	2.2	14.1	[2]13.3	3.6	21.4	[2]37.0	2.1	6.5	[2]10.6
Norway	8.1	20.0	17.5	7.7	10.7	9.6	10.5	34.8	32.5	7.1	14.1	11.8
Peru	14.5	30.4	35.4	33.2	34.8	28.3	8.4	28.4	28.0	28.8	38.7	40.0
Philippine Islds.	16.6	109.4	115.6	34.7	73.5	74.5	27.3	70.2	83.9	51.2	58 6	62.3
Poland	......	1.8	2.1	......	.7	.8	......	40.8	52.4	......	13.8	13.9
Sweden	9.2	38.3	44.5	4.2	10.5	10.5	20.5	58.9	67.5	9.0	15.2	14.7
Switzerland	26.3	37.0	37.7	9.9	9.4	9.2	22.8	43.9	47.1	6.3	9.1	9.2
Union of S. Africa	2.6	10.2	7.7	.8	2.7	2.2	17.9	45.5	62.3	9.5	14.9	17.0
United Kingdom	142.6	251.5	226.9	5.6	6.7	6.4	689.4	1,184.4	918.1	18.4	18.6	15.8
Venezuela	8.3	10.5	32.6	28.7	16.5	27.8	6.8	31.5	46.1	38.5	53.8	57.4

*Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684.

[1] Data are for 1926.

[2] Data are for 1927.

[3] Year ended June 30.

[4] Includes reexports; data for other years are domestic exports.

The position of these exports in the import trade of many important foreign countries has also advanced. As may readily be seen from the data compiled by the United States Department of Commerce in Table III, it has advanced but slightly in certain European countries such as Great Britain and Germany, while the United States' share of the imports of France and Italy is substantially greater than it was in 1913. It has more particularly advanced in the Latin-American countries and in the Orient and Australia, and a glance at these data will also indicate the astoundingly heavy proportion of total imports obtained from the United States in certain of these countries and in Canada.

The ratio of domestic exports to total production of exportable commodities in the United States, however, has not increased within recent years because production as a whole and domestic requirements have also increased enormously. Aside from the War and immediate post-War period, this ratio has been about 10 per cent during the past quarter century.[2] Unless this relationship between exports and total production is scrutinized with care, it is apt to result in a gross understatement of the importance of the export trade and in failure to appreciate the progress that has been made, and it may also confuse the reader in his conception of what was previously stated with reference to international division of labor and surplus production.

Totals of this description are necessarily misleading: (1) They do not, as was previously mentioned,[3] take into account the effect that a rise or decline of 10 per cent in output may have upon national prosperity. The last comparatively small percentage of production may exert a highly important influence upon the profits of business enterprises; and it may also affect production costs advantageously. An export ratio of but 10 per cent may do much to steady employment, investment returns, and prices.

(2) An average export ratio based upon all exportable commodities does not segregate exportable goods that are, in fact, exported on but a very small scale, or not at all, from those that are exported far in excess of 10 per cent of current output.

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[2] *Foreign Trade of the United States*, United States Bureau of Foreign and Domestic Commerce, Department of Commerce, 1928.

[3] Chapter II.

Although but one-sixth of the country's agricultural products, excluding seeds, have in recent years been exported, about 25 per cent of the wheat crop, over 50 per cent of the rye crop, 35 to 40 per cent of the leaf tobacco crop, 45 to over 60 per cent of the cotton crop and over 30 per cent of the output of lard have been exported during the last five years. These agricultural commodities are of basic importance throughout large farming areas, and there can be no doubt as to the direct importance of export markets to them, and their indirect importance to the many other industries that depend upon these farming regions for an appreciable portion of their domestic market. The export ratio of the mineral industries as a whole is similarly depressed by the huge output of coal and crude petroleum, all but a small percentage of which is regularly consumed at home. The entire petroleum and petroleum re-

TABLE IV

EXPORTS OF MERCHANDISE FROM THE UNITED STATES BY ECONOMIC CLASSES*

(Data cover period beginning July 1, 1876, and ending Dec. 31, 1929)

(Values in millions of dollars)

Yearly Average or Year	Total Value	Crude Materials		Crude Foodstuffs		Manufactured Foodstuffs		Semimanufactures		Finished Manufactures	
		Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent
1876–1880	664	214	32.2	159	23.9	162	24.4	30	4.5	99	14.9
1881–1885	775	262	33.8	163	21.0	197	25.5	37	4.8	116	14.9
1886–1890	726	277	38.1	109	15.0	182	25.0	40	5.5	119	16.4
1891–1895	876	295	33.7	151	17.2	239	27.2	55	6.3	136	15.6
1896–1900	1,136	297	26.1	215	18.9	273	24.0	110	9.6	242	21.3
1901–1905	1,427	432	30.3	174	12.2	316	22.2	161	11.3	344	24.1
1906–1910	1,751	555	31.7	156	8.9	317	18.1	249	14.2	474	27.1
1911–1915	2,332	717	30.7	206	8.8	334	14.3	359	15.4	716	30.7
1915–1920	6,417	1,169	18.2	588	9.2	1,133	17.7	987	15.4	2,540	39.6
1921–1925	4,310	1,187	27.5	420	9.7	601	13.9	537	12.5	1,566	36.3
1910–1914 (fiscal)	2,130	713	33.5	127	5.9	295	13.8	342	16.0	654	30.7
1913 (calendar)	2,448	777	31.7	170	6.9	325	13.3	397	16.2	780	31.9
1921	4,379	984	22.5	673	15.4	685	15.7	410	9.4	1,627	37.1
1922	3,765	988	26.3	459	12.2	588	15.6	438	11.6	1,292	34.3
1923	4,091	1,208	29.5	257	6.3	583	14.3	564	13.8	1,478	36.1
1924	4,498	1,333	29.6	393	8.7	573	12.8	611	13.6	1,588	35.3
1925	4,819	1,422	29.5	318	6.6	574	11.9	662	13.7	1,843	38.3
1926	4,712	1,261	26.8	335	7.1	503	10.7	656	13.9	1,957	41.5
1927	4,759	1,193	25.1	421	8.8	463	9.7	700	14.7	1,982	41.6
1928	5,030	1,293	25.7	293	5.8	467	9.3	717	14.3	2,259	44.9
1929	5,157	1,142	22.2	270	5.2	484	9.4	729	14.1	2,532	49.1

* Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684.

fining industry is, however, influenced very appreciably by the exportation of about 35 per cent of the output of kerosene—a proportion which until recently was even greater—and by the exportation of about 30 per cent of the yearly output of lubricating oils. The copper industry similarly depends upon foreign markets for about 45 per cent of its market.

(3) Even more confusing is the average export ratio of the manufacturing industries, exclusive of prepared foodstuffs. As stated in a recent publication of the Department of Commerce: "In 1899 the value of the domestic output of such manufactures was in the neighborhood of $5,500,000,000, and the value of the exports $433,000,000—exports thus representing between 7½ and 8 per cent of the total. In 1925 the value of the output was more than $30,000,000,000 and that of the exports a little over $2,500,000,000; the proportion was practically the same as in 1898—around 8 per cent."[4]

This record of exports to total production shows the remarkable growth of the manufacturing industries, the expansion of their domestic market, and the extent to which many of them have been able to depend upon this expansion for the marketing of their output. The United States differs from many other countries in this regard. But an average export ratio of this kind is gravely misleading, unless analyzed in connection with other data, much of which is also referred to by the Department of Commerce. The average is necessarily depressed by the vast range of manufacturing industries that have been established in the United States, some of which export scarcely at all but which may attain the point of surplus production at some future date, and others of which, although producing exportable products, may never hope to produce more than they can readily dispose of in their domestic market. Many new industries, moreover, have been established during the last quarter century; the vast increase in industrial output since 1899 is by no means due entirely to the expansion of the old industries that then produced an output valued at five-and-one-half billions. Although the production of some of the newer manufactures, such as automotive and machinery products, advanced so rapidly that within a comparatively short time they entered the export trade, their export ratios will in all probability become larger in the future, and other of the newer manufacturing industries—although they have enhanced the volume of the nation's industrial output and depressed its average export ratio—have as yet experienced little difficulty in marketing practically all of their output in the home market.

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[4] *Foreign Trade of the United States,* 1927.

It is not surprising that under these circumstances the exportation of ordinary iron and steel products and steel rolling mill products has not during recent years increased in proportion to total output, and that their export ratio has in many instances declined somewhat. Scores of domestic industries producing finished manufactures require growing quantities of iron and steel; it is in the form of finished manufactures that substantial quantities of steel are being exported to foreign markets. The Department of Commerce, in reviewing the average export ratio of all exportable manufactures, makes the significant statement that "the foreign demand is generally largest for articles which require much fabrication and which the United States produces by mass methods such as various types of machinery and automotive products. For example we export over one-half of our annual output of motor cycles, over one-third of our typewriters, one-quarter of our sewing machines, about one-fifth of our agricultural machinery, and about one-tenth of our output of cash registers and automobiles."

(4) The trend of average export ratio since the beginning of the present century, moreover, does not reflect fully the principle of surplus production according to which an industry usually does not export a substantial part of its output and makes no determined effort to increase its exports until it has developed to a point of regularly producing a surplus in excess of what can readily be marketed in its home market without demoralizing prices. At the beginning of the century, certain manufacturing industries had already reached this stage in their development, but fifteen or twenty years earlier only a few of them gave serious attention to the export trade. Nor does it follow that an industry now producing a large surplus will continue to do so permanently and necessarily increase its export surplus throughout future stages of its development.

Industrial rearrangements such as those just referred to may, although a great increase in total output occurs, indeed cause a shrinkage in the export surplus of important export industries. In some instances the domestic market demand may prove to be so elastic as to reduce the export surplus of a rapidly growing industry, and in others production may decline actually or in proportion to the normal domestic demand incident to a growth in population. Increased foreign competition, moreover, may reduce the export surplus of a particular industry, and an exporting industry that at one time possessed cost advantages in comparison with the cost of producing similar products abroad or in comparison with the cost of producing other domestic products in the United States, may during later years lose this advantage.

The export wheat surplus of the United States, for example, has fluctuated widely during the past quarter century. During the decade preceding the European War it gradually declined and at various times was so small that American wheat prices were not on an export basis, *i.e.*, they had a clear identity of their own and were not at such time dominated by the prevailing import wheat prices of the great world market at Liverpool. Other wheat exporting countries having favorable production costs were entering the international wheat markets with a growing surplus, while wheat production in the United States was retarded somewhat and a large part of the domestic crop was being retained for home consumption. Wheat production was again raised to a higher level during the War and immediate post-War period when important pre-War sources of supply were entirely eliminated and several others were seriously handicapped by a shortage in available ocean tonnage, and when prices were so high that unfavorable production costs became a minor consideration. For a while, also, the Government imposed restrictions upon the domestic consumption of wheat products. Under such conditions the wheat surplus of the United States again increased, and is now substantially greater than it was just prior to the beginning of the War. American wheat remained on the export basis and when world wheat prices broke abruptly in 1920 and 1921 the marketing of this surplus occasioned a serious economic problem, for the surplus determined the price of the entire crop of American wheat. For a decade prior to the War, the American wheat farmer had operated under a comparative cost disadvantage, and at that time the difficulty was causing a gradual reduction in the export surplus, and had the War not occurred this trend would quite conceivably have continued. A shrinkage of the wheat surplus may again occur in the future, although this cannot be forecast with any degree of certainty. An abrupt reduction of the export surplus by means of a shrinkage in wheat acreage is a serious matter to wheat growers and various forms of governmental action designed to bring about higher prices without curtailing production have been considered.[5]

The wide range of exportable commodities produced in the United States due to our abundance of natural resources, labor and capital, and other economic factors previously referred to, and in part also to the protective tariff policy, should not blind one to the constant operation of the international division of labor and comparative cost principles in the determination of American exports. Basic economic changes are gradually occurring in the United States and in foreign countries, and these changes are gradually resulting in a recasting of the world division of labor. Our food exports continue to be of great importance but they have been relegated to a secondary position. Crude foodstuffs comprised 23.9 per cent of our total merchandise exports during the period of 1876 to 1880; 5.9 per cent during the period 1910 to 1914; and 5.2 per cent in 1929. Exports of manufactured foodstuffs during the same period declined from 24.4 per cent during the first of these periods, to 13.8 per cent during the second, and to 9.4 per cent in 1929. The percentage of crude material exports to total exports remained somewhat in excess of 30 per cent throughout most of the period 1876 to 1914, but since then has declined from an average of 33½ per cent for the years 1910-1914, to 22.2 per cent in 1929.

Our manufacturing industries are consuming more of the nation's raw materials. Many of these industries are growing with astonishing rapidity and their exports have attained leadership in the nation's export trade. Finished manufactures are now much the largest group of exports; they grew from 14.9 per cent of total merchandise exports in the period 1876-1880, to 30.7 per cent in the period 1910-1914, and to 49.1 per cent in 1929. Exports of semi-manufactures advanced from 4½ during the first of these periods to 16 per cent in 1910-1914, and then they declined somewhat; in 1929 they comprised 14.1 per cent of the total merchandise export trade. Both because of the ability to produce and the prevalence of foreign demand, the dominant tendency is to export finished manufactures, particularly those requiring much fabrication and easily adaptable to mass production methods. The effectiveness of mass production can, of course, be retarded both in the domestic and in the foreign market if the quality or design of the industry's products does not meet the requirements of its customers, but there is an abundance of instances of mass production on the part of industrial concerns that rank high in the quality of their output

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[5] *See* Chapter V.

TABLE V

EXPORTS BY CONTINENTS AND GREAT TRADE REGIONS*

(Data cover period beginning July 1, 1876, and ending Dec. 31, 1929. Hawaiian Islands are included in Oceania prior to 1901; the Philippine Islands are included in Asia for all years; Turkey in Europe is included in Asia beginning 1928).

(Values in millions of dollars)

Yearly Average or Year	Total	North America				South America		Europe		Asia		Oceania		Africa	
		Northern		Southern											
		Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent
1876–1880......	677	34	5.0	36	5.4	22	3.3	562	83.1	11	1.7	7	1.1	4	0.6
1881–1885......	792	43	5.4	45	5.7	28	3.6	642	81.0	18	2.2	13	1.6	4	.5
1886–1890......	738	39	5.2	43	5.8	32	4.3	586	79.3	20	2.8	15	2.0	3	.5
1891–1895......	892	49	5.5	61	6.8	33	3.7	709	79.5	21	2.3	14	1.6	5	.6
1896–1900......	1,157	80	6.9	65	5.6	36	3.1	887	76.7	45	3.9	26	2.3	17	1.5
1901–1905......	1,454	125	8.6	98	6.7	46	3.2	1,051	72.3	77	5.3	30	2.0	28	1.9
1906–1910......	1,779	181	10.2	155	8.7	82	4.6	1,213	68.2	97	5.5	32	1.8	18	1.0
1911–1915......	2,371	337	14.2	182	7.7	122	5.2	1,517	64.0	133	5.6	52	2.2	27	1.1
1915–1920	6,521	780	12.0	503	7.7	361	5.5	4,124	63.2	562	8.6	109	1.7	82	1.3
1921–1925......	4,397	627	14.3	445	10.1	297	6.8	2,318	52.7	499	11.3	141	3.2	70	1.6
1910–1914(fiscal)	2,166	320	14.8	181	8.4	121	5.6	1,350	62.3	121	5.6	48	2.2	25	1.1
1913 (calendar)..	2,484	409	16.5	192	7.7	147	5.9	1,500	60.4	154	6.2	54	2.2	29	1.2
1921...........	4,485	600	13.4	529	11.8	273	6.1	2,364	52.7	533	11.9	113	2.5	73	1.6
1922...........	3,832	583	15.2	332	8.7	226	5.9	2,083	54.4	449	11.7	102	2.7	56	1.5
1923...........	4,167	661	15.8	426	10.2	269	6.5	2,093	50.2	511	12.3	146	3.5	61	1.5
1924...........	4,591	634	13.8	456	9.9	314	6.8	2,445	53.3	515	11.2	157	3.4	70	1.5
1925...........	4,910	659	13.4	480	9.8	403	8.2	2.604	53.0	487	9.9	189	3.9	89	1.8
1926...........	4,809	748	15.5	429	8.9	444	9.2	2,310	48.0	565	11.7	213	4.4	101	2.1
1927...........	4,865	845	17.4	408	8.4	438	9.0	2,314	47.6	560	11.5	194	4.0	107	2.2
1928...........	5,129	926	18.0	397	7.7	481	9.4	2,375	46.3	654	12.7	180	3.5	117	2.3
1929...........	5,241	962	18.3	434	8.3	539	10.3	2,341	44.7	643	12.3	192	3.7	131	2.5

*Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684.

and in their endeavor to meet the demand for improvements and new designs or styles.

International division of labor is also largely responsible for the changing trend of our export markets. The shift from food and raw material exports to exports of finished manufactures naturally causes one to anticipate a change in the location of export markets. The industrial countries of Europe that have always been foremost as export markets for American foods and raw materials became important markets for industrial machinery, refined mineral oils, copper, lead, lumber, and a considerable list of finished manufactures, some of which are specialties or general manufactures of distinctive quality or price. But the principal demand for finished manufactures developed in the nonindustrial regions of the world. Between the industrial districts of the United States and the nonindustrial regions of the United States and of foreign countries there

TABLE VI

Per Cent Each Class Makes of Total Trade for Each Continent. *

Class	North America			South America			Europe			Asia and Oceania		
	1910–1914	1921–1925	1928	1910–1914	1921–1925	1928	1910–1914	1921–1925	1928	1910–1914	1921–1925	1928
Exports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Crude materials	17.8	16.1	14.2	2.2	2.7	.7	44.6	38.3	37.9	16.1	21.2	26.3
Foodstuffs	17.8	23.4	18.9	10.9	8.8	7.9	22.5	30.5	18.0	10.8	7.9	6.6
Semimanufactures	14.6	11.9	13.5	18.1	15.7	15.0	17.2	11.6	14.8	10.2	15.1	14.2
Finished manufactures	49.8	48.6	53.5	68.7	72.9	76.3	15.7	19.6	29.2	62.9	55.8	52.9
Imports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Crude materials	32.9	24.2	20.1	38.1	31.2	30.8	27.4	22.9	20.9	54.7	65.7	64.8
Foodstuffs	45.1	45.2	37.5	47.8	49.0	53.4	12.1	10.2	11.0	14.7	9.5	11.2
Semimanufactures	13.4	16.3	18.4	13.0	18.5	15.0	23.5	24.9	26.6	13.5	10.5	11.8
Finished manufactures	8.7	14.3	24.1	1.1	1.3	.8	37.0	42.0	41.5	17.1	14.2	12.3

	Adjusted Percentages of Exports to North America			Adjusted Percentages of Exports to Europe		
	1910–1914	1921–1925	1928	1910–1914	1921–1925	1928
Exports	100.0	100.0	100.0	100.0	100.0	100.0
Crude materials	18.1	17.3	15.2	44.4	37.1	36.6
Foodstuffs	16.6	17.6	13.2	22.9	32.7	20.8
Semimanufactures	14.8	12.8	14.4	17.1	11.2	14.3
Finished manufactures	50.5	52.3	57.2	15.6	19.0	28.2

* Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684.

is a clean-cut division of labor that creates an interchange of products. Although our exports to Europe have increased, they comprised but 44.7 per cent of total merchandise exports in the year 1929 as compared with 62.3 per cent during the pre-War period 1910-1914, and 83.1 per cent during the years 1876 to 1880. The percentage of total exports destined to all other continents, on the contrary, have increased. Since the beginning of the present century when American exports of manufactures first began to be of substantial importance, the percentage of total exports destined to the foreign markets of North America has advanced from 15.3 to 26.4 per cent; that destined to South America, from 3.2 to 10.3 per cent; to Asia from 5.3 to 12.3 per cent; to Oceania, from 2 to 3.7 per cent; and to Africa from 1.9 to 2.5 per cent. Europe in 1928 took 68.7 per cent of our exports of crude materials and 55.6 per cent of our food exports, but the European markets accounted for but 30.3 per cent of the finished manufactures exported from the United States, and finished manufactures comprised but 29.2 per cent of the nation's total European exports. The details of this distribution of exports are readily available to the reader and have frequently been discussed elsewhere.[6]

AMERICAN IMPORTS

International division of labor has also in a large measure determined the nature of our imports, the sources from which they are obtained and the changes that have occurred. Finished manufactures, which for many years comprised the largest group of imports, declined from over 30 per cent of the total during the early eighties to 23.1 per cent during the pre-War period 1910-1914, and to 22.6 per cent in 1929. Their aggregate value has increased somewhat, but their position in the nation's import trade has declined and they now amount to but 39 per cent of the value of finished manufactures exported from the United States. Many of them compete directly with American industries and their importation is restricted by protective import duties as well as by the efforts of the nation's growing industries to dominate the domestic market. Their nature, moreover, has in many instances changed with the rise of domestic industries. As the cotton and wool textile industries of the United States increased their output, imports of foreign textiles gradually changed from ordinary textile products to high-class fabrics not produced on such a large scale in domestic mills. Steel rails and many standard iron and steel products were imported from abroad before the American iron and steel industry was established and during its infancy, but during later years the importation of ordinary iron and steel products declined and in many instances was discontinued.

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[6] *See Foreign Trade of the United States*, United States Department of Commerce (annual); *Commerce Yearbook* (annual); *United States Commerce and Navigation* (annual); *Monthly Summary of Foreign Commerce. See also* E. R. Johnson and Collaborators, *History of Foreign and Domestic Commerce of the United States.*

TABLE VII

PER CENT EACH CONTINENT TAKES OR FURNISHES OF TOTAL TRADE IN EACH ECONOMIC CLASS *

Continent	Crude Materials			Foodstuffs			Semimanufactures			Finished Manufactures		
	1910–1914	1921–1925	1928	1910–1914	1921–1925	1928	1910–1914	1921–1925	1928	1910–1914	1921–1925	1928
Exports.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
North America...	12.1	14.0	13.8	x20.4	x23.5	x31.3	20.6	22.9	23.7	36.8	32.0	29.8
South America...	.4	.7	.3	3.1	2.5	5.0	6.4	8.6	10.0	12.7	13.7	16.1
Europe..........	83.4	73.5	68.7	x71.1	x68.1	x55.6	67.3	49.3	48.5	32.0	28.5	30.3
Asia and Oceania.	3.8	11.4	16.9	4.3	5.0	7.2	5.0	18.0	16.6	16.2	22.7	19.5
Africa...........	.3	.5	.3	1.0	.8	.9	.7	1.1	1.1	2.4	3.1	4.3
Imports.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
North America...	19.2	17.0	13.2	39.4	49.5	37.7	15.1	24.5	23.1	7.7	18.1	25.5
South America...	13.3	10.2	12.0	24.9	24.8	31.8	8.7	12.9	11.2	.6	.7	.5
Europe..........	38.6	18.6	17.8	25.4	12.9	14.3	64.0	43.1	43.6	79.5	61.2	57.2
Asia and Oceania.	25.4	50.7	54.0	10.2	11.4	14.3	12.1	17.3	18.8	12.1	19.7	16.5
Africa...........	3.6	3.6	3.1	.1	1.3	1.8	.1	2.2	3.3	.1	.2	.2

* Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684.

x Using the adjusted exports shown at the bottom of Table 26, of Trade Information Bulletin 684, these proportions are as follows: North America, 1910–1914, 18.8 per cent; 1921-1925, 16.5 per cent; 1928, 20.4 per cent; Europe, 1910–1914, 72.8 per cent; 1921–1925, 75.2 per cent; 1928, 66.5 per cent.

Imports of foreign semimanufactures as a whole are also increasing in value and their relative position in the import trade has been maintained because many of them are utilized by American industries in the production of finished manufactures. During the early eighties they comprised somewhat less than 14 per cent of the total value of foreign imports; during the years 1910 to 1914, 18.2 per cent, and in 1929, 20 per cent. Chemicals, refined copper, vegetable oils, tin, wood pulp, prepared fibers, leather, spun silk, pig iron, dyestuffs, and other foreign wares that have undergone partial manufacture, are imported for use in American industries and are influenced, although to a less extent than foreign raw materials, by an increasing demand for industrial materials. Some of them compete directly with American products of similar materials and are subject to protective tariff duties, but many of them differ obviously from imported finished manufactures in that their importation is encouraged by American producers of finished manufactures.

A third group of imports consists of crude foodstuffs for most of which there is a ready demand in the United States, and many of which are clearly the result of an international division of labor. Many foodstuffs are imported from foreign regions possessing favorable climatic conditions, tropical and subtropical foods being exchanged for the manufactures produced in the industrial regions of the United States, and to a smaller extent for American flour, canned and prepared meat products, condensed milk, and other foods not produced on an adequate scale in the specialized agricultural regions of the tropics. Imports of coffee, tropical fruits, nuts and vegetables, cocoa beans, etc., find a ready market in the United States, and division of labor fortunately makes it possible to export sufficient American products to assist greatly in providing a basis for settlement. Crude foodstuffs as a group have for many years played an important rôle in the import trade. They comprised nearly 15 per cent of the total during the early eighties, 12 per cent during the pre-War period 1910-1914, and practically the same proportion (12.3 per cent) in 1929.

Additional foreign foods are imported after being manufactured or prepared for consumption or for further manufacture in American plants. Raw cane sugar, a semirefined product, competes with American beet and cane sugar, but is imported on an enormous scale, for it is the basic raw material of most of our cane sugar refining industry, and other manufactured or partly manufactured foods are included in this group. The total value imported has grown somewhat, but it has declined from 19.1 per cent during the period 1881-1885, to 11.5 per cent during the years 1910-1914 and to 9.6 per cent in 1929.

The outstanding feature of the import trade is the growth, absolute and comparative, of foreign raw materials. Many manufacturing industries have outgrown the domestic production of raw materials. Some of them are dependent almost entirely upon foreign raw materials, others find it necessary to supplement the domestic supply with substantial quantities of foreign raw materials, and still others, because of geographical location and transportation costs, price or quality considerations, are induced to import industrial raw materials from abroad. Raw silk, crude rubber, furs, crude petroleum, hides and skins, wool and mohair, leaf tobacco, crude chemicals, oil seeds, uncut diamonds, long-staple cotton fibers and textile grasses, iron ore, manganese ore, and other crude materials as a group advanced from 20 per cent of all merchandise imports during the early eighties to 35.2 per cent during the period 1910-1914, and to 35.4 per cent in 1929, and in 1925 and 1926 they comprised more than 40 per cent of the entire import trade.

TABLE VIII

Imports of Merchandise into United States by Economic Classes*

(Values in Millions)

	Total	Crude Materials		Crude Foodstuffs		Manufactured Foodstuffs		Semi-manufactures		Finished Manufactures	
		Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent
1876–1880	493	91	18.5	89	18.6	106	21.5	61	12.4	145	29.4
1881–1885	667	133	20.0	99	14.9	128	19.1	92	13.7	215	32.2
1886–1890	717	162	22.6	113	15.8	118	16.5	113	15.8	210	29.3
1891–1895	785	185	23.6	147	18.7	141	17.9	113	14.4	200	25.5
1896–1900	742	219	29.5	112	15.1	118	15.9	99	13.4	194	26.2
1901–1905	972	325	33.4	126	12.9	120	12.4	162	16.6	240	24.7
1906–1910	1,345	465	34.6	148	11.0	159	11.8	240	17.8	334	24.8
1911–1915	1,712	598	34.9	219	12.8	215	12.6	297	17.4	383	22.4
1915–1920x	3,358	1,348	40.1	408	12.2	545	16.2	574	17.1	484	14.4
1921–1925	3,450	1,290	37.4	383	11.1	448	13.0	609	17.7	720	20.9
1910–1914 (fiscal)	1,689	595	35.2	203	12.0	194	11.5	307	18.2	389	23.1
1913 (calendar)	1,793	620	34.6	221	12.3	198	11.1	340	19.0	413	23.1
1921	2,509	859	34.2	300	12.0	368	14.7	362	14.4	620	24.7
1922	3,113	1,180	37.9	330	10.6	387	12.4	553	17.8	663	21.3
1923	3,792	1,407	37.1	363	9.6	530	14.0	721	19.0	771	20.3
1924	3,610	1,258	34.9	425	11.8	522	14.4	656	18.2	749	20.8
1925	4,227	1,748	41.4	495	11.7	433	10.2	755	17.9	796	18.8
1926	4,431	1,793	40.5	540	12.2	418	9.4	804	18.1	877	19.8
1927	4,185	1,601	38.3	505	12.2	451	10.8	750	17.9	879	21.0
1928	4,091	1,467	35.9	550	13.4	405	9.9	763	18.6	907	22.2
1929	4,400	1,559	35.4	539	12.3	424	9.6	885	20.1	994	22.6

* Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684

x Period July 1, 1915, to Dec. 31, 1920.

International division of labor as the primary basis for this import trade is clearly demonstrated in Tables VI and VII.

Crude materials and foodstuffs are imported mainly from non-European regions; finished manufactures, mainly from Europe. American supplies of raw materials and foods, on the contrary, are exported to Europe, and American finished manufactures mainly to nonindustrial regions located in other continents. Semimanufactures, imports as well as exports, are relatively more important in our trade with Europe than with other continents but are rather widely distributed; they are naturally exported to the industrial regions of Europe and the United States from regions located in Europe, in the United States, or elsewhere that are equipped with the necessary processing facilities, and which produce a surplus for exportation.

TABLE IX

Imports by Continents and Great Trade Regions.*

(Data cover period beginning July 1, 1876, and ending Dec. 31, 1929. Hawaiian Islands are included in Oceania prior to 1901; the Philippine Islands are included in Asia for all years; Turkey in Europe is included in Asia beginning 1928.)

(Values in millions of dollars)

Yearly Average or Year	Total	North America				South America		Europe		Asia		Oceania		Africa	
		Northern		Southern											
		Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent	Value	Per Cent
1876–1880......	493	28	5.6	87	17.6	68	13.8	248	50.3	56	11.3	5	.9	2	.5
1881–1885......	667	42	6.3	96	14.4	76	11.4	368	55.1	70	10.5	11	1.7	4	.6
1886–1890......	717	40	5.6	99	13.8	82	11.5	402	56.0	74	10.4	16	2.3	3	.5
1891–1895......	785	36	4.6	128	16.3	117	14.9	398	50.6	85	10.8	16	2.1	5	.6
1896–1900......	742	37	5.0	76	10.3	98	13.2	390	52.6	108	14.6	23	3.1	10	1.3
1901–1905......	972	53	5.4	130	13.3	122	12.5	498	51.3	150	15.4	9	.9	11	1.1
1906–1910......	1,345	80	5.9	180	13.4	157	11.7	690	51.3	205	15.2	17	1.2	17	1.2
1911–1915......	1,712	131	7.7	249	14.5	220	12.8	798	46.6	271	15.8	19	1.1	24	1.4
1915–1920	3,358	425	12.7	588	17.5	591	17.6	682	20.3	910	27.1	70	2.1	91	2.7
1921–1925......	3,450	397	11.5	514	14.9	421	12.2	1,049	30.4	943	27.3	54	1.6	71	2.1
1910–1914 (fiscal)	1,689	119	7.0	229	13.5	207	12.2	836	49.5	259	15.3	17	1.0	23	1.3
1913 (calendar)..	1,793	143	8.0	246	13.7	198	11.1	865	48.2	299	16.7	17	.9	24	1.3
1921...........	2,509	338	13.5	417	16.6	296	11.8	765	30.5	618	24.6	35	1.4	40	1.6
1922...........	3,113	367	11.8	456	14.6	359	11.5	991	31.8	827	26.6	49	1.6	65	2.1
1923...........	3,792	418	11.0	583	15.4	467	12.3	1,157	30.5	1,020	26.9	59	1.6	87	2.3
1924...........	3,610	402	11.1	593	16.4	466	12.9	1,096	30.4	931	25.8	49	1.4	73	2.0
1925...........	4,227	459	10.9	522	12.3	519	12.3	1,238	29.3	1,319	31.2	78	1.8	92	2.2
1926...........	4,431	486	11.0	526	11.9	568	12.8	1,286	29.0	1,401	31.6	68	1.5	96	2.2
1927...........	4,185	484	11.6	501	12.0	518	12.4	1,276	30.5	1,257	30.0	55	1.3	93	2.2
1928...........	4,091	500	12.2	461	11.3	569	13.9	1,249	30.5	1,169	28.6	53	1.3	90	2.2
1929...........	4,400	515	11.7	467	10.6	640	14.5	1,333	30.3	1,280	29.1	57	1.3	109	2.5

* Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684.

The nature of a heavy proportion of our imports and the way so many of them fit directly into our economic life as materials for American industries or foods for public consumption comprises but one aspect of the import trade. Another is that American exports are dependent upon these imports and upon the import trade as a whole. The United States must export in order to obtain necessary imports, and the nation must similarly import commodities in order to create a basis for its exports. Merchandise imports and exports have always comprised the largest items in the international balance of payments of the United States, even though the invisible items have also become of great importance. Commodity imports remain the largest offset to the vast sums due on commodity exports; they normally do much to keep exchange rates in alignment, and they provide substantial return cargoes for the ocean carriers upon which all exporters depend for necessary transportation services.

The status of commodity transactions, gold movements and invisible transactions in the international balance of payments of 1929 was discussed in Chapter I, and this is perhaps sufficient to demonstrate the present-day relation of merchandise exports and imports, but the general principles there laid down can be further applied to the foreign trade experience of the United States by examining the nation's trade balance during previous periods of economic development.

THE MERCHANDISE TRADE BALANCE

Prior to 1873 the merchandise imports of the United States, with the exception of occasional years, exceeded the nation's merchandise exports. The two invisible items of the international balance of payments making this possible, and indeed necessary, were ocean freights and loans of capital from abroad. The former were especially important during the earlier decades of this period when American shipping not only carried a large percentage of the foreign trade of the United States but also engaged in trade between foreign nations. Similar to this invisible item in the international balance of payments was the frequent sale of American ships abroad with the resultant cash claims due from foreigners. The importance of foreign loans from England became of primary importance during the decades following 1830. Foreign loans did not, of course, advance steadily but the period before 1873 as a whole was clearly representative of the early stage of foreign borrowing during which new loans gradually increase and interest payments due on old loans are comparatively small. During the later decades tourist expenditures became a factor of considerable importance.

The immediate occasion bringing about a change from a balance of imports to a balance of exports was the severe crisis of 1873. The crisis not only decreased imports temporarily by restricting the purchasing power of the people of the United States, but by weakening domestic demand for American products, created a tendency to seek foreign markets, and it exerted a widespread influence upon foreign loan operations. Foreign borrowing was retarded. The crisis of 1873 did not determine their course throughout the next two decades, but it brought about the first general change in this important invisible item of the international balance of payments. After 1873 the nation's foreign trade usually showed an excess of merchandise exports, but the excess was not large and at times there was a temporary return to a balance of imports. Foreign borrowings were so large at times as to make a continued export balance impossible. On the whole, however, new borrowings from abroad increased less consistently than before 1873, interest payments on previous loans became a more important item in the international balance of payments and ocean freight payments to foreigners came to exceed those made to American ocean carriers. A basis for a merchandise export balance was being created, and at the same time the nation's agricultural and raw material industries were producing a growing surplus available for sale in foreign markets.

The shrinkage of imports caused by the business depression of 1893 promptly led to a greater export balance than had usually prevailed during the preceding two decades, and this relationship between imports and exports was maintained unfailingly during the remainder of the century even after business again became prosperous. These closing years of the century, however, were complicated by wide fluctuations in gold and security movements, foreign crop failures and American bumper crops and other economic and political influences all of which "were part of a confused series of events, in which it would seem impossible to disentangle the effects of any one of the forces which 'normally' act on international trade."[7]

Exports have thus far continued to exceed imports during the twentieth century. Prior to the European War, the surplus of agricultural exports, more particularly wheat and flour, was beginning to decline somewhat, but the rising tide of manufacturing was causing an increasing surplus of manufactures. Commodity imports continued to be the major item in the international balance of payments to offset the rapid advance in merchandise exports, but the invisible items readily made possible a growing excess of exports over imports. New loans from abroad remained of substantial importance, but the nation was now in that stage of economic development during which its previous foreign loans greatly exceeded its current foreign borrowings. Two other debit items in the international balance of payments—immigrant remittances and American tourist expenditures abroad—also increased rapidly, and freight payments by Americans to foreign ocean carriers, although of less importance, further swelled the invisible items that made possible a large balance of merchandise exports.[8]

During the European War and subsequently the heavy balance of merchandise exports continued. It reached unprecedented proportions during the War when exports were increased so vastly for reasons well known to every reader. (See Table II.) After the United States entered the War enormous Government loans were made to the Allied Governments to finance exports of war munitions, food and other American products that had been purchased and were still to be purchased by them in huge quantities. These loans became the great balance wheel in the international balance of payments of those turbulent years; so great was the excess of commodity exports that gold shipments and other invisible items as they then obtained could not conceivably have maintained the necessary financial equilibrium.

After the War came to a close the great excess of exports over imports continued until 1920 and then declined abruptly with a sharp reduction in exports; but it has, since then, with the exception of but two years, remained at a higher level than it had attained during the pre-War period of the new century. It became clear that the United States had entered still another stage in its economic development, the period of American capital exports and huge aggregate invisible transactions that were discussed in Chapter I. Interest due Americans on their foreign investments and loans began greatly to exceed the interest due foreigners on foreign loans and investments in the United States. This may at some future date bring about a shrinkage in the balance of merchandise exports, but during the present stage of economic development it is overshadowed by the new American loans and investments that are being made abroad each year. Many new foreign investments continue to be made in the United States, but they too have been overshadowed by the exportation of American capital during most of the post-War years. In the years 1928 and 1929, however, net capital exports in excess of foreign investments in the United States were small.[9]

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[7] F. W. Taussig, *International Trade*, p. 291.

[8] For tabulation of estimated balances of international payments in 1894, 1901, 1909, and 1912 with citation of sources, *see ibid.*, p. 296.

Meanwhile, American tourist expenditures abroad have also increased very largely, payments to foreign ocean carriers and immigrant remittances continue to be important invisible items in the balance of international payments, and minor invisible items, many of which were so small during previous periods as to be excluded from estimates of the international balance of payments, have since become of considerable moment.

The frequently made forecast that the collection by the United States Government of interest and principal installments on its European war debts would shortly force a huge balance of merchandise imports has not thus far been realized, and there is no certainty as to when a shift to an excess of imports will occur. When American private loans and investments abroad also begin to be repaid on a large scale and private interest receipts begin to exceed new foreign loans and investments of American capital, it is quite probable that the United States will enter the stage of economic development usually featured by a balance of merchandise imports. The trade balance, whether featured by an excess of exports or of imports, obviously is not a measure of the importance of either exports or imports to the United States as a nation.

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[9] *See* Chapter I, Table I.

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CHAPTER IV

TARIFF POLICIES AND FOREIGN TRADE

In discussing the development of international commerce in accordance with an international division of labor based largely upon the principle of comparative costs, mention was necessarily made of Government tariff policies especially designed to protect American industries against the free importation of competitive foreign products. A nation adhering to the protective tariff policy may develop not only industries having a comparative cost advantage, due to distinctive climatic advantages or natural resources, or to labor costs, raw material and fuel costs, capital costs and the availability of capital, the effective use of machinery, effective management, mass production, favorable transportation and delivery costs and other considerations that may influence the production and sale of commodities that are not given to the nation by climate or the exclusive possession of natural resources; it may also produce commodities that have unfavorable costs in comparison with the cost of producing them abroad and in comparison with the costs incurred in the production of other commodities within the nation. This situation has led to wide differences of opinion concerning the probable effect that protective import duties in the United States have had upon the development of international division of labor, upon exports and imports, and upon national welfare.

Believers in free trade or customs duties for revenue only hold that the development of industries producing commodities moving in international commerce should be limited to industries possessing cost advantages of the kind referred to, that the free movement of all merchandise in international commerce should be encouraged, and that consumers are at all times entitled to purchase all exportable products at prices determined by world conditions of supply and demand—to import such of them as can be obtained to advantage from abroad.

Believers in the protective tariff policy do not agree with these general tenets. They do not, however, admit that protective import duties entirely nullify international division of labor and the principle of favorable comparative costs. Many of them insist that protection can be granted advantageously to industries fully in accord with those principles, at least under conditions that will be referred to shortly, and that national welfare may also be furthered by developing certain additional industries. Others go much further, apparently being in favor of protection as widespread as political expediency may warrant.

Beginning in 1818, the protective tariff policy has, with the exception of but a few short periods of reduced import duties, been a major part of the commercial policy of the United States Government. The many tariff laws enacted during this long period of time have admittedly not been free from political expediency, and the specific purposes expressed by their sponsors have changed from time to time. They have been influenced by the demands of free traders, of protectionists having in mind limited protection to selected industries, and of those who have favored widespread protection to American industries. Because of this lack of entire consistency in purpose; because of the influence exerted upon production, commerce, and national welfare by other economic and political factors; and because of the lack of complete data concerning foreign and domestic costs, and the comparative costs of different industries within the country, it is not possible to state with precision the full effect that protection has had. Several more general conclusions may, however, be stated with a reasonable degree of certainty.

The growth of the manufacturing industries has, beyond question, been promoted by the protective tariff policy, even though the exact extent of their growth due to protection cannot be defined. It is also beyond question that among these protected industries there are some that are fully in accord with the comparative cost and division of labor principles. To them protection has meant earlier development and perhaps greater development than would otherwise have occurred. There are a number of conditions under which protection does not run counter to these principles.

1. The infant industry argument, however much it may at times have been distorted, may in many instances be in accord with these principles. The costs of an industry during the

early stages of its development may be unfavorable in comparison with those of other industries in the United States, and of competitive industries abroad; but later, when it once obtains a secure foothold, when production methods have been perfected, and when the volume of its output has reached an economical level, its production costs may become favorable. Protection may be desirable or necessary to such an industry, and its application during the period of transition from unfavorable to favorable costs is not in conflict with the principle of comparative costs and the natural division of labor among nations. Particularly applicable is the infant industry argument to industries producing products adaptable to mass production.

2. The retention of protection by an industry after it reaches a basis of favorable costs, involves considerations that will be referred to later in connection with general protection as distinguished from protection to selected industries. In any case, it does not, in the long run, prevent the division of labor among the nations of the world on the basis of comparative costs.

3. Protection for the purpose of counteracting temporary abnormal conditions, such as unfavorable exchange rates, abnormally low foreign production costs, or other disturbances of customary international business relations, may also be fully in accord with division of labor on the basis of comparative costs. It is unreasonable to interpret these principles so narrowly as to preclude protection to American industries against conditions such as those following the European War.

4. An industry based upon favorable costs may also be menaced by foreign price discriminations, or the dumping of competitive products by some other industrial nation at export prices below the normal level of its domestic prices. Not only the United States but many foreign nations have taken special measures to prevent dumping of competitive foreign products.

5. Protection to industries having favorable comparative costs may also be retained to counteract protective tariff or other restrictive or discriminating policies enforced by foreign governments. So long as many industrial nations maintain tariff barriers and assist their industries by governmental action, the determination of their comparative costs, the marketing of their exports and the scope of their imports is not governed solely by economic conditions. Although a consideration of this char-

acter is, of course, disregarded by the free trader, who usually assumes a free trade policy world-wide in scope, it is a practical consideration in tariff legislation.

But the protective tariff policy of the United States has been extended beyond the range of industries having favorable costs in comparison with competitive foreign industries, and has not been limited to industries having the greatest comparative cost advantages. Under existing conditions of world politics it would be shortsighted for every nation to limit the development of its industries to strictly national or domestic industries which produce commodities of such a nature as to preclude importation, and to industries producing exportable commodities having favorable comparative costs. To depend upon foreign sources of supply for all other commodities, including, perhaps, some of the most urgent necessities, loses sight of the possibility of international wars, and the danger of ocean routes being closed, or necessary sources of supply being otherwise seriously disturbed temporarily or for a period of years. Nor, aside from such possibilities, would it seem good national policy to disregard the possibility of fluctuations in the foreign production of basic commodities, and exorbitant import prices due to shortage, government restrictions, or foreign price control methods. Home industries would, in case of contingencies, doubtless be established if possible, but the development of industries to a point of efficient production usually requires time. It would seem that there are certain basic industries that are so important to the national welfare that the United States as a nation will insist upon their development and maintenance, regardless of comparative costs and the ability normally to import at favorable prices. It would seem, for example, that the essential food-producing industries are of this character. The steel industry, in which the basic steel products upon which scores of other industries depend, is another. There doubtless are other basic industries and the difficulty of agreement upon what industries are of this character does not invalidate the desirability of granting such industries a reasonable measure of assistance if it should appear that their maintenance would otherwise be endangered.

The assistance properly granted to basic industries is not limited to the protective tariff policy. There may be basic industries which, from their very nature, require more direct forms of government aid. American merchant vessels operating in the foreign trade, for example, have for many years been burdened by unfavorable operating costs. The principle of comparative costs would have the United States depend largely upon foreign vessels for necessary ocean transportation services, but a reasonably large and highly efficient American merchant marine is a basic industry, because of its direct importance to the nation's growing exports of manufactures, and its bearing upon the prosperity of the increasing number of manufacturing industries, the surplus output of which is being shipped to competitive foreign markets.

In the United States, however, protection has also been extended to other industries, to industries having unfavorable costs in comparison with the nation's dominant industries and to industries having costs higher than those prevailing abroad. Under the American tariff system protection is granted to a rather wide range of industrial and agricultural products; it includes a decided element of general protection as distinguished from limited protection to selected industries, temporary protection to infant industries, or protection to meet abnormal conditions or to counteract the restrictive policies of foreign countries. The arguments advanced in favor of this more general granting of protection may be summarized as follows:

1. The home market argument has frequently been stressed by protectionists, particularly in the past. After foreign markets became admittedly important to manufacturing industries producing an export surplus, it lost some of its effectiveness in tariff legislation, but it has by no means been discarded entirely. The value of the home market to a multitude of American industries—manufacturing and agricultural—is unquestioned, but it does not follow that supplementary foreign markets are not also necessary and desirable for many of our industries, nor is it necessarily sound national policy to encourage the home production of commodities that could be imported from abroad at favorable prices, merely for the purpose of increasing the domestic market somewhat. The extent to which the development of industries not having favorable comparative costs has increased the home market, moreover, is not entirely clear, for if such industries were not fostered by the protective tariff policy, labor and capital would presumably be employed to an

even greater extent than at present in the dominant self-supporting industries. But this presumption can easily be overstressed, the output of industries having the greatest comparative cost advantage cannot be increased indefinitely, a limit being set for their particular products by their combined available domestic and foreign market.

2. Perhaps the argument now most generally urged in favor of protection in the United States is the labor argument. It variously implies that protection brings about higher wages and a better standard of living; that protection safeguards American labor against an equalization with the wages and living standards of competing foreign countries; that the higher wage scales of the United States make protection necessary in order that American industries may compete with their foreign competitors. There can be no doubt that protection enables some industries to pay higher money wages than they could otherwise pay. Industries faced by total costs in excess of those of the dominant industries which have the greatest comparative cost advantage, being enabled to charge higher prices than could be charged in the absence of a tariff barrier, are in turn able to pay higher money wages, and competition in the labor market compels them to pay wages sufficiently high to attract an adequate number of workmen. The money wages paid in industries whose total costs are in fact high in comparison with the total costs incurred by competitive foreign industries, are at a higher level than would be possible under a régime of free trade. But it does not necessarily follow that the general level of money wages, or that commodity wages, which denote the standard of living throughout the United States, would be lower permanently than they now are if industries of this character had not been developed. Again, it is presumed that in such cases labor would be employed more largely in industries that are self-supporting, particularly in those having the greatest comparative cost advantages. In such industries high wages and a high standard of living are assured by the favorable conditions that variously make possible an effective application of labor.

The actual effect that protection has had upon wages and living standards throughout the United States as a whole, however, is complicated by the probable limits to production in the dominant industries set by market requirements, and by the inclusion of industries having favorable comparative costs within the nation's protective tariff schedules. These complications are too frequently disregarded in wage discussions. The assumption that the protection of industries having favorable comparative costs, and probably exporting some of their output to foreign markets in competition with foreign industries, cannot possibly have any effect upon wages is not conclusive. Few industries producing commodities of the kind that move between nations are entirely free from active or potential foreign competition in the home market. The limitation of this competition may, in fact, have some influence upon their ability to promote their foreign sales, and it may also influence somewhat the wages paid to labor.

But the effect of protection upon wages and living standards as a whole can also be grossly overstated. Competition with foreign industries in the absence of protection would not necessarily equalize American and foreign wage scales. Wages have undoubtedly been influenced by considerations of supply and demand and in some industries by collective bargaining, but they depend basically upon the effectiveness with which labor is applied. This in turn depends variously upon the efficiency of men and management, upon effective production methods, favorable climatic conditions, natural resources, and all other factors entering into the total costs of industry. Just as there has been no general equalization of wages and living standards among all industries within the United States, so is there no likelihood that international differences in wage scales and living standards are due exclusively to tariff barriers.

3. General protection, as distinguished from protection to selected industries or protection to meet special conditions, has at times also been urged for the purpose of making the nation self-sufficient. Economic self-sufficiency to the extent of producing all commodities that can be produced, regardless of unfavorable costs, obviously runs directly counter to the division of labor and comparative cost principles, under which each nation produces the exportable products to which it is best adapted, and imports other exportable products from foreign countries better adapted to their production.

4. The granting of "competitive" or "compensatory" tariff protection designed to equalize domestic and foreign production

costs need not necessarily contemplate national self-sufficiency. When, however, it is urged in the interest of all established industries that compete with low cost foreign industries, including industries that seemingly can never hope to become self-supporting, protection of this sort also tends to defeat the comparative cost and division of labor principles.

5. This, as well as other arguments favoring general protection as distinguished from protection to selected industries or protection to meet special conditions, has frequently been related to the practical consideration that industries having once been established their subsequent decline usually involves a business upheaval, a shifting about of labor and perhaps a temporary loss of wages and employment, a shifting of capital and frequently a permanent loss to those who have invested in the declining industries. If the industries are large their distress may be reflected in other industries and may occasion a business depression. The argument in favor of permanent protection to equalize domestic and foreign costs becomes particularly effective in tariff legislation when it is shown that the establishment of an industry was originally encouraged by means of protective import duties. If an industry, although established, is not a basic industry that is essential to the public welfare and is permanently handicapped by unfavorable costs, the continued granting of protection may in the long run be ill-advised, but the immediate, although temporary, effect of its withdrawal is a highly practical consideration in tariff legislation.

The protective tariff policy of the United States by promoting a wide range of industries has undoubtedly affected the international division of labor somewhat. It is equally clear that the policy, in its entirety, has by no means disregarded that principle. Protection has been granted for several purposes that are quite in accord with the division of labor and comparative cost principles. The evidence presented in Chapter III, moreover, is conclusive that there is, in fact, a division of labor as between the United States and other nations and regions of the world. The principle of comparative cost is operating in the United States, even though our protective tariff policy has passed beyond the purpose of promoting selected industries and meeting special conditions. Protection has obviously been far more effective in promoting some industries than in promoting others.

There are dominant industries producing exportable products in the United States, industries that have made outstanding headway, that afford the highest wages and standard of living and the highest return on capital investment. There are others, such as those producing raw wool and wool manufactures, raw cane sugar, etc., which, although protected, have been unable to hold their own. The explanation is that the former have a comparative cost advantage; the latter are at a disadvantage, and protection has not been able to equalize this difference.

PROTECTION AND FOREIGN TRADE

The relation of tariff protection to international division of labor and comparative costs referred to above obviously influences foreign as well as domestic commerce, but something may be added to the general discussion by referring to certain possible effects of protection upon the total volume of the nation's imports and exports. Some of these possible effects can probably not be demonstrated any more conclusively than the exact proportion of industrial growth due to protection. They should be mentioned because otherwise the reader may too readily conclude that the protective tariff policy of the United States hopelessly retards the nation's imports and exports.

Protective tariff duties undoubtedly retard the importation of the particular commodities to which they apply. This is their immediate purpose. Their effect, in the long run, upon imports as a whole, however, is complicated by the operation of other trade factors, by the status of other items in the international balance of payments, by the current availability of export surpluses abroad, and the effect that protection may have upon the demand for many kinds of imports in the United States by promoting industries and purchasing power. The outstanding shift from finished manufactures to raw materials, discussed in Chapter III, although not to be ascribed entirely to the protective policy is assuredly to be considered as partly due to the effect that protection has had upon industrial growth. To whatever extent protection may have increased the purchasing power of the general public, moreover, the heavy consumption of imported goods may be due in part to that policy. These influences tend to counterbalance each other, at least in part. The direct effect of the tariff barrier upon many kinds of foreign imports has probably retarded the total volume of imports, but it has not prevented its gradual growth. Nor should the Act of 1930 prevent a further growth in the future.

It has frequently been stated as a conclusion that the protective tariff policy has also retarded the export trade of the United States, this conclusion being variously arrived at as follows: (1) The restriction of imports by increased tariff barriers at first causes a flow of specie to the United States and this, in accordance with the quantity theory of money, causes prices and money incomes to rise there, while in foreign countries it causes them to decline. Later this situation will lead to increased import purchasing at low prices by the United States and to a falling-off of exports to foreign countries, American export prices having increased and foreign money incomes declined. Specie movements and changes in prices and money incomes will gradually result in an equilibrium as between imports and exports, and both will be less than before the tariff barrier was imposed or raised. Incidentally, the claim is also made that when this equilibrium is attained the United States will be buying and selling at favorable terms, *i.e.*, "the Americans will be the gainers under the new terms of trade, the others the losers."[1] (2) A less complicated form of reasoning has it that the restrictions of commodity imports as a whole will retard commodity exports as a whole because these two items are related in the international balance of payments, and because unfavorable exchange rates will result. (3) Protection, by enhancing the home market, makes export markets less necessary and reduces the export surplus.

Because other factors or forces are also at work, their practical application to actual export movements during recent years is difficult to establish. (1) As was noted in Chapter I, so many important invisible items have become part of the international balance of payments that increases in the export commodity trade balance are not necessarily followed by increased gold and specie imports. There must, of course, be a reasonable relationship between commodity imports and exports because they remain the largest items in the international balance of payments, but the difference between them may, under present conditions, be very substantial without occasioning heavy gold and specie movements.

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[1] F. W. Taussig, *International Trade*, p. 144.

(2) Foreign exchange rates during the post-War period, were, in many instances, influenced much more largely by political, currency and general economic conditions than by changes in commodity trade balances. Only exceptionally heavy depreciation in foreign exchange rates, not explainable on the basis of commodity movements, seems to have imposed a temporary export handicap.[2]

(3) The dependence of exports upon the production of a surplus, moreover, must always be kept in mind, and in this connection the extent to which protection may have promoted particular industries to the point of surplus production should not be disregarded. It should be recalled that protection in the United States has not been confined to industries having unfavorable costs, and that some American industries that are regularly exporting to foreign markets are on the protective tariff list. It is a vital question as to how far their ability to produce a surplus and to sell abroad has been aided by the policy of protection.

(4) It is dangerous to assume that a manufacturing industry that exports to competitive foreign markets could do equally as well in those markets if protective import duties were withdrawn. The presumption is that such industries must have favorable costs; otherwise they could not meet foreign competition. There remains, however, the fact that protection to a greater or less extent relieves them of the necessity or fear of freely combating foreign competition in the home market, that they are better able to maintain and control domestic prices, and that under such conditions their executives are more apt to feel justified in authorizing expenditures for export trade promotion, export sales organization, and direct foreign selling. Under such conditions they will also feel freer and more able to reduce export prices below the domestic price level when in particular markets, because of foreign competition, low native purchasing power, or other reasons, it seems necessary or desirable to do so. All forms of export price discrimination are not subversive to the public welfare of the United States or to that of the foreign country to which the exports are destined.

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[2] *See* Chapter XXX.

(5) The growth of American exports, although influenced by the nation's ability and willingness to import, and directly dependent upon its ability to produce an export surplus, is also dependent upon the ability and willingness of foreign countries to consume American products. That this ability and willingness depends entirely upon the international flow of specie, with its consequent general effect upon prices and money incomes at home and abroad or upon foreign exchange rates, is quite improbable. They are assuredly influenced by many other factors, such as the development of national resources within the foreign countries, the growth of their industries—particularly those based upon favorable costs—the growth of their population, purchasing power and knowledge, and effective sales promotion and salesmanship.

(6) Protection tends to safeguard the home market for domestic industries, and to that extent it reduces the need for foreign markets and the percentage of output sold abroad. To whatever degree wages, living standards, and purchasing power have been enhanced by protection, it may also be that the domestic market has, on the whole, been enlarged. But the final effect of this upon exports cannot be measured without taking into account the extent to which production in the exporting industries has been stimulated by the protective tariff policy. It is impossible to judge what the volume of our export trade would be had the free trade policy prevailed, but it is certain that an increasing number of manufacturing industries has, under the protective régime, grown beyond the domestic market, and that the domestic market argument is no longer stressed as largely as in the past.

FOREIGN TRADE PROMOTING CLAUSES OF UNITED STATES TARIFF ACTS

In practice there is no longer a free trade party in the United States. The Democratic Party in general still stands for downward revision, but the Underwood Tariff Act of 1913 and subsequent tariff discussion made it clear that nothing approaching a free trade policy is contemplated. The Republican Party in general continues to sponsor a high protective tariff barrier, but it no longer stresses the domestic market to the exclusion of export trade. Neither party is any longer a unit when tariff revision is undertaken. The McKinley Act of 1890 authorized the President to negotiate trade reciprocity agreements on the basis of defined groups of commodities, and the limited bargaining power which this created resulted in reciprocity agreements with Austria Hungary, Cuba, Porto Rico, Germany, Nicaragua, Honduras, Guatemala, Salvador, Santo Domingo, Brazil, and with Great Britain for Jamaica, Barbados, the Leeward Islands (Trinidad and Tobago), the Windward Islands (except Granada), and British Guiana. This policy of executive bargaining was abandoned in 1894 in the Wilson (Democratic) Tariff Act, but the Dingley (protective) Tariff Act of 1897 again provided for limited executive reciprocity agreements and also for more general reciprocity treaties subject to congressional approval. Reciprocity agreements were effected with France, Germany, Portugal, Italy, Switzerland, Bulgaria, Great Britain, Spain, and the Netherlands. Eleven reciprocity treaties were also negotiated shortly after the law was enacted, but they failed of ratification by the Senate. The Cuban reciprocity treaty, which is still operative, was not effected until 1902, in accordance with an enabling act passed by Congress.

The Payne-Aldrich (protective) Tariff Act of 1909 terminated the limited agreements of the Dingley Act, the principle of bargaining for special terms being discarded in favor of the double tariff plan. In order to enable the President to combat tariff discriminations against American exports, he was authorized to apply a minimum schedule of import duties to countries which did not unduly discriminate against the United States, and a maximum schedule, the duties of which were 25 per cent higher, to other countries. This clothed him with bargaining power designed not to obtain special favor for American exports, but to eliminate undue discrimination on the part of foreign countries. Something was accomplished under this act, but it was short-lived. The double tariff plan was discarded in the Underwood Tariff Act of 1913, which revised import duties downward and also returned to the policy of trade reciprocity. When the Republican Party returned to power in 1920 a higher measure of protection was clearly forecast by the distress of agriculture, following the collapse of agricultural commodity prices, by the insistent demands of war-born industries, and by the need of various other industries under the abnormal conditions of the post-War period for increased protection against low-priced European products.

Many agricultural products and some others were granted increased tariff rates in the emergency tariff act of 1921, and in 1922 the Fordney-McCumber Tariff Act was enacted. In this act protective duties were generally revised upward, and it also embodied the principle of flexible compensatory or competitive duties, the President being authorized, upon investigation by the Tariff Commission, to adjust import duties in accordance with differences between domestic and foreign production costs. He could increase the statutory duties by not more than 50 per cent or, if this did not equalize costs, he could, subject to limitations, apply the American selling price of similar competitive articles produced in the United States, instead of the customary foreign wholesale value or export value of the foreign products as the basis for ad valorem import duties. It also authorized the President to increase import duties when in particular instances it was found that unfair methods of competition and unfair acts in the importation and sale of foreign products tended to destroy or substantially injure an economically operated domestic industry, to prevent the establishment of such an industry, or to restrain or monopolize trade within the United States.

The Tariff Act of 1922 did not, however, disregard American exports. Although discarding bargaining for special favors on the basis of reciprocity agreements or treaties, it did not revive the double tariff plan; instead it applied the principle of countervailing duties "designed to eliminate discriminations against American exports." This principle is similar to the double tariff plan but is more flexible. When it was found that a foreign country imposes any "unreasonable charge, exaction, regulation or limitation" upon American products, "which is not equally enforced upon the like articles of every foreign country"; or that it discriminates "against the commerce of the United States directly or indirectly, by law or administrative regulation or practice, by or in respect of any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or prohibition, in such manner as to place the commerce of the United States at a disadvantage compared with the commerce of any foreign country," the President was authorized in the public interest to increase the import duties applicable to designated products imported from the country practicing such discrimination, and, if necessary, to exclude such products from importation into the United States until its discrimination against the United States was discontinued. This principle of insisting upon equal treatment, as distinguished from bargaining for special trade favors, has, with the exception of the Cuban Reciprocity Treaty, which was specifically exempted in the Tariff Act of 1922, also been applied in the negotiation and interpretation of commercial treaties.

The Hawley-Smoot Tariff Act of 1930 again embodied a general revision of import duties. Certain duties were reduced, but many were increased substantially with a view to the granting of further protection to American agriculture and industry. After extended controversy the flexible tariff provision (section 336 of the Act) was amended. The powers of the President were limited somewhat by providing that the Tariff Commission shall make definite recommendations of rate changes, within a limit of 50 per cent of the rates specified in the act, and that the President is then either to approve or reject the rates so recommended. The President is no longer empowered to modify the Commission's suggestions as to changes in rates, classification, or basis of value. The Act of 1930 also provides that "if the Commission finds that such cost [of production] is not readily ascertainable, the Commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values of the foreign article for a representative period, and/or the average wholesale selling price for a representative period, which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets." It is also required to take into consideration transportation and other delivery costs, and "other relevant factors that constitute an advantage or disadvantage in competition including advantages granted to the foreign producers by a government, person, partnership, corporation or association in a foreign country."

The policy of empowering the President to retaliate against foreign discriminations is continued in section 338 of the Tariff Act of 1930. He may, subject to limits, impose additional duties on ''articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country,'' when it is found that unfair treatment is accorded American exports or that the commerce of the United States is being subjected to discrimination; and if such action is followed by further discrimination he may, provided he deems such action consistent with public interest, direct ''that such product of said country or such articles imported in its vessels . . . be excluded from importation into the United States.''

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CHAPTER V

EXPORT PRICE DISCRIMINATION AND GOVERNMENT PRICE CONTROL

EXPORT PRICE DISCRIMINATION

The several types of price quotations prevailing in the export and import trade will be discussed in Part V dealing with foreign trade technique.[1] The practice of export price discrimination or dumping, however, is related to the more general principles of international commerce, for when exports are sold at prices below the level of domestic prices the advantage of the export trade to the individual exporter and to the exporting nation has frequently been questioned. It also raises the question of fairness to the importing nation and fairness to rival foreign exporters.

Export price discrimination, moreover, is at times related to the protective tariff policy. The erection of a tariff barrier facilitates the maintenance of domestic prices at a level which may be higher than the prices at which particular exports are marketed abroad, although every instance of export price discrimination is by no means dependent upon tariff protection. Industries having a cost advantage over foreign rivals are in a favorable position to practice dumping, provided their output is controlled within the limits of total available demand. Such industries may be able to maintain domestic prices and at the same time reduce their export prices in particular markets without the assistance of a tariff barrier. Industries having a virtual monopoly dependent upon natural resources, climatic conditions or patent rights are also in a favorable position although their incentive to reduce export prices is reduced somewhat by the absence of foreign competition.

Some industries, on the contrary, being faced by active foreign competition, will, in the absence of tariff protection, be unable to maintain domestic prices, and in some instances a tariff barrier is not sufficient to enable exporters to practice export price discrimination. Wheat prices in the United States, for example, when a large export surplus is produced, are determined by world conditions of supply and demand even though protective customs duties are in effect. A large uncontrolled surplus determines the basic prices of the entire crop. Wheat growers do not systematically regulate their production as many industries do; they do not control the distribution of their wheat crop, and they have little voice in the determination of the prices received by them. They regularly sell all available wheat to grain dealers who, knowing that the surplus will have to be resold at world prices, purchase the entire crop on that basis. Local grain dealers resell at the central markets where prices are governed by the export surplus, and these basic prices also confront growers who ship direct to the central markets. Under such conditions a tariff wall may restrict wheat imports without, however, maintaining domestic wheat prices above the export prices received for wheat shipped to foreign markets.

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[1] Chapter XXXVI.

It was proposed by several bills which were enacted by Congress but effectively vetoed by the President to supplement the tariff on wheat and various other agricultural products with governmental machinery which would so control the export surplus and domestic prices as to raise domestic prices above the world prices received for the surplus shipped to foreign markets. If such a plan were adopted it would be an instance of export price discrimination deliberately effected by the Government in an effort to solve the problem of low agricultural prices. It would be an instance of dumping the surplus continuously or until such time as world conditions of supply and demand would bring about agricultural prices comparable with the prevailing domestic prices of other products, or prices at least adequate to maintain the agricultural industries in a prosperous condition. The original mechanism provided for contemplated the payment of an equalization fee out of which the loss sustained in connection with the export surplus would be met. Later, in 1929, the use of export debentures was substituted. Objections were raised on the score of Government price fixing, difficulties in administering the proposed equalization fees, and the probable effect of the export debenture plan upon government revenues and speculation and the uncertainty of its influence on growers' prices. The most effective argument against these plans, however, was that the maintenance of high agricultural prices would probably increase rather than decrease the export surplus, further depressing world prices and ultimately making the plans as a whole top-heavy. Limitation of production by Government mandate was not and probably could not in practice be made a part of such plan. Export debentures were again proposed in connection with tariff revision in 1929 and 1930 but failed of enactment.

Export price discrimination in many other industries is administered by private business concerns. The producers themselves control their export surplus, and they regulate their output in accordance with market requirements. While maintaining domestic prices they may continuously or for substantial periods of time reduce some or all of their export prices to a lower level in order to accomplish certain purposes or to meet particular foreign market conditions, and it may be profitable for them to do so. The motive may be the enlargement of plant (1)
facilities so as to permit of large-scale production.

If the domestic market is elastic, the basis for greater output and the economies of large scale production may be found in a reduced domestic price level, but the manufacturer may find that the maintenance of domestic prices on a higher level than the maximum prices obtained abroad, because of foreign competition or low foreign purchasing power, will be profitable to him. 2
If his domestic market is inelastic there is all the more reason why he may consider the maintenance of domestic prices above the export prices obtainable abroad. The profits on his domestic sales will be greater per unit than those obtained from his export sales, but his aggregate profits may be enlarged by the policy of price discrimination. A similar situation arises when it is found that the domestic market does not enable a manufacturer 3
to operate his existing plant facilities on the basis of maximum production. The extent to which the domestic market is elastic will again be considered, but it may be found to be a clear case of having to produce an export surplus in order to operate his plant to full capacity, and in marketing this surplus he may be confronted by conditions of competition or purchasing power that differ materially from those prevailing within the United States.

Whether or not these forms of export price discrimination are detrimental to the United States as a nation depends upon their effect upon production costs and domestic prices, and upon the possibility of enlarging the home market by domestic price reductions without unreasonable sacrifice of profits. It may be assumed that a private concern will not voluntarily increase its plant facilities for the purpose of attaining production economies if it entails the reduction of its domestic price level to such an extent as to reduce its profits. If, on the contrary, it can, by means of export price discrimination, so enlarge its output as to reduce production costs per unit and increase its profits, the manufacturer may decide to enlarge his plant or operate his existing plant to full capacity. Under such conditions domestic prices are not necessarily maintained at an unreasonable level. The resulting economies of large scale production may reduce average production costs so as to warrant lower domestic prices than would otherwise prevail, and if the manufacturer shares these economies with his domestic customers it would seem that the public interest is preserved.

Domestic customers are not necessarily treated unfairly and the United States as a nation does not necessarily suffer a loss in every instance of permanent or long-continued export price discrimination, but the burden of proof in every instance undoubtedly rests with the industry practicing that policy.

Continuous export price discrimination extending throughout long periods may be contrasted with intermittent dumping designed to accomplish some special purpose or to meet a handicap which the exporter regards as temporary in character. Exporters have been known to resort to export price discrimination as a means of introducing their products and developing a demand in particular foreign markets where they hoped later to discontinue that policy. When local conditions temporarily reduce prices in particular countries which normally are valuable markets, exporters likewise may decide to sell at prices below the domestic price level in order to maintain their trade connections and their foreign trade organization. Or they may dump products temporarily to stamp out competition, to forestall threatened competition, or to retaliate against the dumping practices of foreign competitors.

Somewhat different is the occasional, and sometimes unavoidable, dumping of merchandise abroad when the customer who ordered it refuses to accept it after shipment, or when export merchandise is consigned to a foreign representative or is sent to a branch house in anticipation of prices which later do not materialize. Still another form of export price discrimination results from the occasional dumping abroad of an overstock of merchandise. Rather than carry the unexpected surplus until business revives, or, in case of seasonal merchandise, until the next season, or rather than reduce prices in his principal markets, the manufacturer may prefer to dispose of the overstock in unimportant or undeveloped markets while maintaining his prices elsewhere.

Some of these miscellaneous forms of dumping are unavoidable. Others are deliberate on the part of the exporter and in accordance with his business judgment; their ultimate effect upon his profits depends quite directly upon their accomplishment of the purpose he had in mind. As in the case of continuous price discrimination extending throughout long periods, moreover, these miscellaneous, temporary dumping practices are not necessarily inimical to the welfare of the exporting nation. Temporary price discrimination designed to obtain a foothold in foreign markets that may become a valuable trade asset, or to develop a demand; to maintain existing foreign trade connections and establish distributing organizations during temporary depressions; or to stamp out or forestall foreign competition, clearly may redound to the advantage of the exporting nation.

Price discriminations designed to retaliate against the dumping of foreign merchandise within the United States or to unload a temporary surplus stock abroad, tend to maintain domestic prices during the period of price discrimination, but their more permanent effect upon the nation's producing industries may be conducive to the public welfare. The ramifications of price discrimination of this character are as wide as those of the protective tariff policy.

The effect of export price discrimination upon importing nations depends largely upon the competitive or noncompetitive character of their industries. Continuous or regular dumping of manufactures in a nonindustrial country may be welcomed. It may regularly assure lower prices than would otherwise prevail and make available valuable sources of supply. The same manufactures when dumped in an industrial country may, however, vitally injure domestic industries that normally possess favorable production costs and other industries that are regarded as of basic importance to the importing country's public welfare. When price discrimination endangers competitive home industries there is a special occasion for tariff protection which in some countries takes the form of ''anti-dumping'' duties.

Occasional or intermittent dumping of competitive products may also place in jeopardy the home industries of the importing country and result in protective legislation. Such dumping, although resulting in favorable prices during the period of price discrimination, may at times disrupt the permanent foreign sources of supply of an importing nation that regularly imports its manufactures from abroad.

Abrupt export price reductions sometimes seriously embarrass importers in the resale of wares that were purchased at higher prices, but as a rule they constantly seek to purchase supplies of merchandise at the most favorable price terms. The international combinations for the control of the metal market, the extensive coöperative purchasing societies that function in Great Britain, and the coöperative department store purchasing plans that have been organized in the United States, which will be discussed in later chapters as parts of the world's export and import marketing organization, are illustrative of the part that organized importing groups may play in influencing export prices.

EXPORT PRICE MAINTENANCE

Export price discrimination on the part of exporters and export price control by importers have a counterpart in the organized efforts that have at times been made by exporters and producers and in several instances by governments, to control international markets with a view to maintaining or enhancing export prices. International and national marketing, or marketing and production combinations are significant in this respect, but as many of them are concerned with the very marketing of export merchandise as well as with price control, they will be discussed more fully in subsequent chapters dealing with export trade organization.

Outstanding among the attempts that governments have made to control export prices by direct action are the rubber price control plan embodied in the Stevenson Act, the Brazilian coffee valorization plans and the Cuban cane sugar control plan. The control of the international crude rubber trade for a time was made possible by the concentration of production in the plantations of the British colonies—British Malaya, India, British Borneo, and Ceylon—and the Dutch East Indies and French Indo-China. During later years a small part of the world's supply continued to come from the native wild trees of South America and Africa, and from 60 to 80 per cent of eastern plantation rubber was produced in British colonies. When, therefore, prices declined in 1921, primarily because of overproduction, an unsuccessful attempt to induce planters to restrict production voluntarily was made, and this was followed in 1922 by the Stevenson Act. Each rubber plantation in the British colonies was assigned a standard production based upon its output during the year 1920, with an additional allowance for new acreage; exports were allocated on the basis of percentages of standard production, the percentage of each quarter depending upon the average crude rubber prices prevailing during the preceding quarter; and export duties were levied as a means of controlling shipments, the rates of duty varying in accordance with a sliding scale from a minimum applicable to shipments made in accordance with the export percentages as based upon standard production, to a prohibitive maximum for exports of larger amounts.

This control of production and shipments undoubtedly influenced export prices at times, and when the price of crude rubber advanced to amounts in excess of one dollar per pound, much attention was devoted to the entire crude rubber situation in the United States where from 70 to 80 per cent of plantation rubber was then being consumed. Protests were made, a buyers' pool was organized, steps were taken by American rubber manufacturers to develop rubber plantations in Africa, South America, and the Philippine Islands, and scientists began experimenting with possible substitute rubber-yielding plants. While the price was at its highest level the United States Department of Commerce also urged greater conservation of scrap rubber. It is not possible to state with exactness the extent to which these protective movements were responsible for subsequent price reduction; it is probable that they were an important factor even though they did not at the time change radically either the sources of supply or the consumption of rubber. The withdrawal of the Stevenson Plan in 1928 was probably due more largely to the very substantial increase in crude rubber production in the Dutch East Indies. During the early months of 1930 a heavy majority of Dutch, British, and other European producers of eastern plantation rubber entered into an agreement under the terms of which the tapping of rubber trees was suspended throughout the month of May. This May tapping holiday was in the nature of an experiment, but is indicative of the urge to reëstablish a measure of price control.

Price maintenance is always an issue of public welfare in a country, large areas of which depend mainly upon the production of a single crop, and when, at the same time, the country produces a commanding part of the world's supply it possesses both the incentive to control export prices through governmental action, and the basis for at least partial or temporary success in its efforts. These conditions prevailed in the British rubber-producing colonies and also in the coffee-producing states of Brazil. São Paulo is the world's largest coffee-producing area, and two additional states—Minas Geraes and Rio—swell the coffee crop of Brazil to about two-thirds of the world's entire supply. In 1902-3, when an oversupply caused low prices, the state of São Paulo limited the planting of coffee trees, and in 1906-7 this state undertook a more comprehensive valorization plan. Prices were so low that coffee planters were in financial difficulty, plantations were being heavily mortgaged and unrest developed among plantation laborers. In order to limit the world's supply to 17,000,000 bags, the state entered the coffee market as a buyer. A tax was imposed upon exports and coffee tree planting, treasury bills were issued, and, with stored coffee as collateral, loans were obtained from foreign banking concerns. By the end of 1907 the state obtained additional aid from the Federal Government, and the Federal Government's backing also made possible a general refinancing of coffee holdings. Stored coffee was placed under the control of an international committee, export taxes were increased and exports from Brazil were limited by agreement. At one time American coffee merchants were reported as participating in the coffee valorization plan, unsuccessful action being directed against them under the Sherman Anti-Trust Act. In 1913, Congress enacted a law authorizing the seizure of coffee imports in case the existence of unlawful restraint of trade could be established.

Later, in 1917, the state of São Paulo entered into a joint valorization plan with the Federal Government, and in 1921 the plan was taken over by the Federal Government. The following year a Federal statute created the Instituto Defensa Permanente de Cafe as a permanent organization for the purchase and storage of coffee by the Government when it is considered desirable to influence prices, and for the making of loans to planters and the financing of advertising and other methods of increasing the consumption of coffee. Complaint has at times been made in the United States, which is the largest consuming market for Brazilian coffee, but it has not been as persistent as that directed against the Stevenson plan because coffee valorization has never caused prices to soar to a dangerously high level. It has at times seemed to bring about price increases, but its more general effect has been to stabilize coffee prices somewhat and to prevent them from declining freely during seasons of heavy production. In 1930 it was announced that the accumulated stocks of coffee would be liquidated within a maximum period of ten years. Steps were taken to negotiate a large international loan to bring about this liquidation, and it was stated that, during the life of this arrangement, the Government would not accumulate additional coffee except as requested by the loaning bankers, who may at times insist upon additional security.

The United States has also been keenly interested in the sugar control plan of Cuba. By an act of 1927 the President of Cuba was authorized to limit cane sugar production and a tax was imposed on sugar mills exceeding the quotas assigned to them. A National Commission for the Defense of Sugar was created to keep the President informed on all matters pertinent to the successful administration of the plan and to make recommendations to him. A sugar export corporation was organized for the shipment of all sugar exported to countries other than the United States. Stock ownership in this company on the part of planters was voluntary, but mill operators were required to purchase stock in proportion to their production of the previous year. The Government also provided capital as well as contributions for propaganda in favor of Cuban cane sugar consumption, a tax being levied to reimburse the Government.

Although Cuba is the largest producer of cane sugar, its position is far less dominant than that of the British Asiatic colonies in the crude rubber industry, or that of Brazil in the production of coffee. It became apparent that Cuba alone could not hope to control the international sugar market to any appreciable degree and the single selling agency of Cuba was dissolved in 1930.

There are many other instances of attempted governmental price control of commodities entering into international commerce.[2] Mention may be made of sisal in Yucatan, currants in Greece, sulphur and citrate of lime in Italy, cocoa in Ecuador, nitrate and iodine in Chile, kauri gum in New Zealand, potash in Germany and France, mercury in Spain, camphor in Formosa, and phosphate in Nauru. In some instances price control is exercised directly by the Government, in others, indirectly through privileged companies or associations, and in several the Government itself participates in production and marketing.

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[2] *See* John Donaldson, *International Economic Relations*, Chap. XII.

PART II

THE GENERAL PROMOTION OF FOREIGN TRADE

CHAPTER VI

FOREIGN TRADE PROMOTION ACTIVITIES OF THE UNITED STATES GOVERNMENT: DEPARTMENT OF STATE

The State Department has been said to be the ''brains'' of the Government in its dealings with foreign powers, and the military and naval forces are credited with being the ''arm.'' The former statement implies the importance of the State Department (usually called ''Foreign Office'' in other countries) in our relations with foreign nations.

The duties of the State Department are those which either directly or impliedly are granted to the President by the Constitution. Sections 2 and 3 of Article 2 of that document authorize the President to make treaties by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur; to nominate, and, by and with the advice and consent of the Senate, appoint ambassadors, other public ministers, and consuls; and to receive ambassadors and other public ministers. From these brief statements, the corollary power has been drawn to conduct ''negotiations on all subjects affecting international relations, even though such negotiations are not intended to lead to a treaty or agreement.''[1]

Specifically, the Secretary of State conducts, under the direction of the President, all foreign relations of the United States through its diplomatic and consular officers abroad and representatives accredited to the United States from foreign countries, and he also acts as the intermediary between the Federal and State governments.

DEPARTMENTAL ORGANIZATION

Directly subordinate to the Secretary comes the Under Secretary of State. This official is the principal assistant to the Secretary and in his absence becomes Acting Secretary of State.

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[1] James T. Young, *The New American Government and Its Work*, p. 23, footnote.

From this point the organization of the department spreads out as indicated in the chart. Four assistant secretaries are provided for, with a segregation of functions as follows:

Assistant Secretary A is "charged with the general administration of the Department of State and supervision of matters relating to personnel and management. He has supervision over all matters pertaining to consular affairs, passports, and visas. He is fiscal officer and controls all allotments and expenditures from Congressional appropriations for the Department and its activities. He is legislative and budget officer and is charged with the supervision of the preparation of estimates of appropriations for the Department and its several activities and their presentation to Congress. He is Chairman of the Foreign Service Personnel Board and of the Board of Examiners for the Foreign Service."[2]

Assistant Secretary B is "charged with all matters pertaining to political, economic, and commercial policies having to do with Europe and the Near East. . . . He is a member of the Foreign Service Personnel Board."

Assistant Secretary C is charged with identical supervision in Latin America and he is also Chairman of the Inter-Departmental Committee on Aviation.

Assistant Secretary D is in charge of similar relations with the Far East. The regional character of the department's organization is indicated by this headquarters assignment.

The Solicitor provides the legal opinions which are so frequently required in the work of the State Department. He is supplied by the Department of Justice and acts as adviser in the negotiation and application of treaties and on questions of State, Federal, foreign, and international law.

The further internal organization of the State Department as it spreads out under these officials and as it relates to the subject of foreign trade, requires mention of the divisions into which it is subdivided.

In the State Department are six regional divisions covering respectively the Far East, Latin America, western Europe, eastern Europe, the Near East, and Mexico. At the head of each division is a chief.

These are in reality research bureaus for the purpose of

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[2] *Register of the Department of State*, 1929, p. 22.

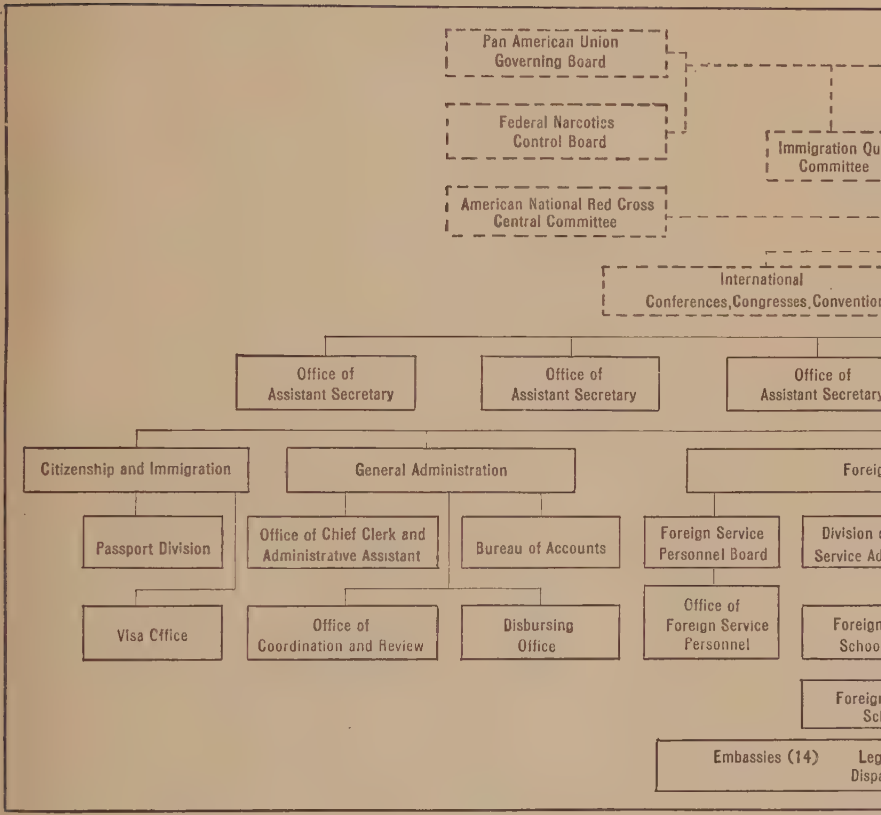
Pan American Union
Governing Board
Federal Narcotics
Control Board
American National Red Cross
Central Committee
Immigration Qu
Committee
International
Conferences,Congresses,Conventio
Office of
Assistant Secretary
Office of
Assistant Secretary
Office of
Assistant Secretar
Citizenship and Immigration
General Administration
Forei
Passport Division
Office of Chief Clerk and
Administrative Assistant
Bureau of Accounts
Foreign Service
Personnel Board
Division
Service Ad
Visa Office
Office of
Coordination and Review
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CHART I. ORGAN

rendering advice to the State Department. In each division is a group of experts who have had considerable experience in the areas of the world to which their attention is directed. It is their task to study the relations of the United States with each of these regions and be prepared to render advice to the Secretary of State when called upon to do so. Being so intimately in touch with conditions and policies in foreign countries, they frame the diplomatic correspondence entered into with them. A distinctly intimate touch is thus assured in our negotiations with other nations. When the office of Foreign Trade Adviser was abolished in 1921, many of the officers and personnel attached thereto were distributed among the appropriate regional divisions.

Part of their work consists of coöperation with other divisions in the department on such matters as visa, citizenship, personnel, etc. Moreover, they closely supervise the maintenance of international obligations as imposed upon the United States by treaty. For example, the Far Eastern Division watches the opium trade to assure full American acquiescence to the Hague Convention.

Reports received in these divisions from consuls and diplomats are carefully examined, the political matter retained and the balance distributed to appropriate government departments which deal directly with the dissemination of such data.

Another State Department branch whose function is to study and render advice to the department is the Office of Economic Adviser. As set forth in the *Register of the Department of State*, this office "gives advice and recommendations to the Department on questions of general economic policy; unifies and coördinates economic matters within the Department, establishes and maintains liaison with the various economic bureaus in other departments; handles economic cases which have no regional character or which overlap geographical divisions; drafts correspondence on matters falling within the following special fields: Natural resources, finances, foreign commercial policy, commercial treaties and tariffs, transportation and communications."

The Economic Adviser, therefore, deals with broad matters relating to international relations and trade, such as foreign loans, commercial treaties, concessions, shipping, war debts, etc.

This office is required to maintain close touch with all current matters in order that it might be in position accurately to advise the Secretary of State what action should be taken, from an economic point of view, on constantly recurring problems.

The Division of International Conferences and Protocol is in charge of arrangements for international conferences, congresses, and conventions, including the appointment of delegates to represent the United States, and the conrol of expenditures. This division also supervises and acts on all matters relating to ceremonial, involving the presentation of ambassadors and ministers at the White House, entertainment of distinguished foreign visitors, etc.

The Treaty Division ''drafts treaties and other international agreements and correspondence pertaining to the negotiation, construction and termination of treaties.''[3] It also maintains lists of treaties, and analyzes, compares, and examines them.

The Office of Coördination and Review supervises all outgoing diplomatic, consular, and other correspondence to insure coordination of departmental policies.

All of the preceding branches of the service relate only to intradepartmental activities. Several other divisions which come into contact with the general public are worthy of brief notice.

The Passport Division handles all matters relating to the issuance of passports as well as questions arising from applications. for passports. It also issues letters of introduction to foreign travelers.

The Visa Office administers matters connected with the administration of the immigration laws in so far as they concern the Department of State and its officers abroad.

The Office of the Historical Adviser, in addition to supervision over the library, the archives, etc., now carries on the work of the former Division of Publications. This includes ''the selection of documents for and the editing of the *Foreign Relations of the United States* and the *Treaties and Agreements of the United States;* editing of the *Statutes at Large*, executive orders and proclamations, the *Register*, the *Foreign Service List*, the *Documentation Series*,''[4] and other publications of the Department.

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[3] *Ibid.*, p. 35.

[4] *Ibid.*, p. 31.

The Division of Current Information prepares news items for the press, including bulletins, copies of texts and general information bearing upon foreign relations.

FOREIGN SERVICE

Prior to the promulgation of the act of May 24, 1924 (Rogers Bill) there existed in the Department of State two distinct types of official representatives in foreign fields. These were the diplomatic and the consular services. Under this act, the two were combined into what is now known as the "American Foreign Service." This is divided into the diplomatic and the consular branches, but they are all considered as Foreign Service Officers. Their functions are essentially as different as they formerly were.

The diplomatic branch still serves "as the official channel of communication between the government of the United States and the government to which the mission is accredited," while consular representatives deal with matters involving relations with local authorities.

The reorganization created by the Rogers Act gave the advantages of "(1) the amalgamation of the Diplomatic and Consular branches into a single Foreign Service on an interchangeable basis; (2) the adoption of a new and uniform salary scale applicable equally to officers in the Diplomatic and Consular branches, thus making unification and interchangeability possible; (3) the authorization of representation allowances, when necessary; (4) the establishment of a retirement act."[5]

Entrance into the service is from a list of candidates whose eligibility is established on the basis of a threefold examination: written, oral, and physical. The examination is open to any one designated therefor by the President.

> Promotion in the service is made from one list of Foreign Service officers arranged in order of ascertained efficiency. New entrants into the service go at once into subordinate positions in the consular branch, where they gain broad, practical experience with the problems of American foreign relations. Prior to an assignment to a post in some consular office abroad, the unclassified officers are given a course of instruction in the Foreign Service School. . . . The future advance-

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[5] *Ibid.*, p. 260.

ment of the young officer and the nature of his assignments within the service will thereafter depend on his ability and the aptitude shown by him.[6]

The following table shows the rankings of Foreign Service Officers as reclassified:

TABLE X

RANKINGS OF UNITED STATES FOREIGN SERVICE OFFICERS

Rank	Proportion of Total Number allowed, Per Cent	Salary	Designations of Officers Included
Ambassadors and Ministers			
CLASS I	6	$9,000	Secretaries Class 1 designated as counselors of embassy. Consuls general Class 1 and 2.
CLASS II	7	8,000	Secretaries of Class 1 designated as counselors of legation. Consuls general Class 3.
CLASS III	8	7,000	Secretaries of Class 1 not designated as counselors. Consuls general Class 4. Consuls general at Large
CLASS IV	9	6,000	Secretaries of Class 2. Consuls general of Class 5. Consuls of Class 1, 2, 3. Chinese, Japanese, and Turkish secretaries.
CLASS V	10	5,000	Consuls of Class 4.
CLASS VI	14	4,500	Secretaries of Class 3. Consuls of Class 5. Chinese, Japanese and Turkish assistant secretaries.
CLASS VII	..	4,000	Consuls of Class 6.
CLASS VIII	..	3,500	Secretaries of Class 4. Consuls of Class 7.
CLASS IX	..	3,000	Consuls of Class 8 and 9.
UNCLASSIFIED	..	$3,000–$1,500	Vice consuls of career, consular assistants, interpreters, student interpreters.

Administration of the American Foreign Service.—The Foreign Service is directly under the supervision of Assistant Secretary of State A. A division of Foreign Service administration acts as a medium between the officers in foreign fields and the Department headquarters in Washington. It is a consolidation of the former diplomatic and consular divisions. It administers the foreign service and the United States Court for China, including all authorizations for movement (not selection) of personnel and expenditure of funds. Sections of this division indicate by name some of the subjects which are given special attention. A documentation section deals with consular invoices and all regulations governing merchandise imported into the United States. A notarials and estates section has charge of the management of estates of American citizens who have died abroad. A welfare and whereabouts section has charge of information on missing American citizens and the transmission of funds to Americans abroad. A shipping section reviews proposed shipping legislation and interprets and prepares instructions and regulations regarding the enforcement of shipping legislation. An administration section deals with personnel and handles questions concerning their property, records, reports, etc.

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[6] *American Foreign Service,* United States Department of State, p. 2.

The Foreign Service Personnel Board is in charge of recommendations for advancement in the service based on efficiency records, recommendations regarding the assignment of Foreign Service officers to posts and transfer from one branch of the service to the other. It also receives applications for appointment and arranges the entrance examinations. Maintenance of high morale, especially in the case of consuls assigned to isolated posts, constitutes an important function. The board itself contains in its membership three of the four Assistant Secretaries of State. In conducting its work, the board is assisted by an executive committee.

A Board of Examiners was established by an Executive Order of June 7, 1924. This Board formulates rules for, and holds examinations under, the regulations set forth in the order. It also designates those fitted for appointment before they are permitted to take the entrance examination.

A Foreign Service School was established by Executive Order of June 7, 1924. The school is for the purpose of training for one year those who by passing the examination have been appointed Foreign Service officers, unclassified grade. Training is conducted in the work of the department, economic and political relations with foreign countries, and conversational French. At the end of the year's instruction, the officers are assigned according to the adaptability they have demonstrated, while those who fail to measure up, notwithstanding the fact that they passed the examination, are dismissed.

For the purpose of supervising matters which relate to the housing of diplomatic and consular establishments abroad and the protection and maintenance of properties owned or to be acquired by the United States for such purpose, a Foreign Service Buildings Office has been established. This office also has charge of expenditures relating to these properties, subject to the approval of the budget officer of the Department.

Field Service.—American Foreign Service officers constitute the field force which is engaged in the conduct of American foreign relations. As indicated above, this is divided into the diplomatic and the consular branches.

There are now fifty-three diplomatic missions which are located in as many foreign countries. These are embassies or legations, depending upon their importance, and this dictates the accrediting of an ambassador or a minister, respectively.[7] A "chief" of diplomatic mission possesses general supervisory control over the consular offices located in the country to which he is accredited. In addition to the chief, a diplomatic mission employs one or more secretaries classified as Foreign Service officers and as many clerks, translators, and other employees as may be provided. Secretaries "supervise the internal administration of the mission, including the general management of the clerical and other personnel, the custody of the archives, the classification, indexing and filing of correspondence, and the coding and decoding of messages in confidential cipher."

Consular offices are established at all foreign points where American trade and travel warrant. The number of offices, three hundred and seventy, is, therefore, considerably greater than the fifty-three diplomatic missions. There are approximately five hundred and fifty officers of various ranks employed in the consular branch. As provided in the Rogers Act, only consuls general and consuls are eligible to be classified Foreign Service officers. Vice consuls may be Foreign Service officers, unclassified grade.

Consular agents are maintained at sixty-six foreign posts. These are found at certain places where Foreign Service officers are not considered necessary. They are usually local business men and possess limited consular powers. Their compensation is derived entirely from the fees they collect, one-half of which, subject to a maximum of $1,000 per year, may be retained. Nothing hinders them from engaging in private business.

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[7] The officer temporarily in charge of a diplomatic mission in the absence of the ambassador or minister is termed "chargé d'affaires."

Another service found in the consular branch is that of language students assigned for study in the Near East, eastern Europe, North Africa, China, and Japan. These are Foreign Service officers, unclassified, who, among other qualifications, show an adaptability to learn foreign languages of their choice. They are assigned to a diplomatic mission or consulate to study, under proper tutoring, the language, characteristics, trade, laws, history, etc., of the country in which they are stationed. Thus men are trained who are capable of later dealing understandingly with countries where language and culture are so different from our own.

Functions of the Foreign Service.—The functions of the American Foreign Service may be divided into three groups: protective, advisory, and administrative. The lives and property of American citizens are granted ~~all~~ necessary protection abroad by officers of the Foreign Service. Consuls and diplomats are the official representatives of a foreign government. As such they are granted certain rights and privileges as prescribed by international law. In this high position, they occupy their principal rôle as advocates for their fellow-citizens when aid is invoked, or is necessary. The diplomatic branch works more in the interests of the nation, while the consuls devote their attention to individuals and enterprises. The extent of protection depends entirely upon circumstances. In the countries which are most highly developed, satisfactory protection is usually provided by the authorities, but in the less developed and unstable nations, a greater element of protection is often necessary.

The territory in which these official representatives are located is considered the soil of their own country. In case of strife, safety may be sought on this soil, and, under international law, it is safe from entrance or seizure. In a few countries of the world, as in Persia, and, to an indefinite extent in China, consuls conduct judicial sittings for the trial of their countrymen involving civil cases.

The officers of the Foreign Service also "establish and maintain an atmosphere favorable to American enterprises, to protect such as are threatened with injury, and to secure redress where injustice has been done. . . . when local laws or regulations limit the equal opportunities to which Americans are entitled, or prove confiscatory of acquired rights, the service makes friendly intervention. When such informal good offices prove unsuccessful, and the grievance is real, formal diplomatic representations may ensue.''[8]

The advisory work of American Foreign Service officers is for the benefit of both the United States Government and private American interests. It is their duty to keep the Department of State duly advised as to current conditions in foreign countries and the course which such matters may be expected to follow. These official representatives thus provide the raw material which the Department of State molds into its announced foreign policy. The facts thus reported enable the Government to adopt a plan which is designed to obtain for Americans the treatment to which they are entitled under the terms of treaties and agreements.

The information service provided by Foreign Service officers for the benefit of American traders, investors, and other business interests is highly important. This is supplied by the consular branch. Through the foreign offices, established at hundreds of points, intimate contact with local business interests is maintained. Paragraph 589 of Article XXVIII of the Consular Regulations outlines the scope of the duties of consular officers in protecting and promoting American trade. These duties are as follows:

> To endeavor to create, each in his own district, a situation favorable to the importation and sale of American goods;
>
> To submit frequent reports on commercial and other economic subjects, both voluntarily and in reply to particular instructions from the Secretary of State;
>
> To reply to the private inquiries of American citizens touching commercial and industrial matters; and
>
> To lend aid and advice to American citizens having or contemplating business in their several districts.

The reports which members of the consular branch of the Foreign Service are required to submit, indicate the range of the commercial activities of these officials. These reports include an annual review of the economic development of the consular district or country where located; periodical reports on commerce and industry; in some instances, monthly and quarterly reports and summaries of commerce and industry; quarterly reviews of the shipping of the district or country; data for the *Port Directory* which is published by the United States Navy Department; an annual report of declared exports to the United States and its possessions; special reports requested by the department and reports submitted on their own initiative covering matters of interest to American trade.

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[8] *American Foreign Service*, p. 3.

Consular officers are also required to submit trade opportunities for American enterprise and merchandise whenever these occur. Each consular office maintains a list of the principal commercial and industrial firms located in the consular district. This trade list is supplied to Washington, as required by the department, and brief special lists are also provided American exporters as requested.

Another phase of this commercial intelligence activity consists of preparing data for the *World Trade Directory* which is maintained by the Bureau of Foreign and Domestic Commerce. These reports are as much as possible procured from direct personal contact with foreign business houses. An indication of the commercial activity of the Foreign Service officers may be drawn from the fact that American consuls are credited with having prepared and forwarded the data for 90 per cent of the existing *World Trade Directory* reports.

Much time is devoted to answering trade inquiries submitted by American traders. These replies include, among others, the following points:

1. Demand for the commodity in question.
2. Is this demand satisfied by local or national manufacturers?
3. Economic conditions affecting demand.
4. Are like commodities of foreign origin on sale in the particular market?
5. If so, countries of origin and approximate proportion supplied by each.
6. Local preference, if any.
7. Types, varieties and prices of each.
8. Sales methods.
9. Credit terms.

10. Shipping facilities.
11. Import duties.
12. Descriptive trade lists of importers (or dealers).[9]

Each trade letter is accompanied by an information sheet which is usually printed and gives certain basic data concerning the district or country.

Foreign Service officers are not permitted to act as business agents for particular concerns. Catalogues and small samples of merchandise may be received, however, for display at the consulate. Moreover, consuls may not attend to the collection of commercial debts or to the prosecution of other private claims of American citizens, "although in appropriate cases they should use their good offices to effect amicable adjustments, and in general they should have such relationships in the business communities of their districts as will enable them to mediate successfully in bringing about an amicable adjustment."

Foreign Service officers are also required to handle and attempt to settle complaints against American exporters instituted by foreign merchants in order to protect the national commercial reputation of the United States. They may appoint members of boards of survey at the request of importers for the purpose of inspecting the condition of merchandise upon arrival abroad and may transmit such reports to the American exporters concerned as evidence in a claim for loss or damage.

While in the United States, consular officials are engaged in trade conferences throughout the country. Abroad they are required to coöperate with other representatives of the United States Government, meeting at least fortnightly with those stationed in the same foreign city. Greater flexibility in this respect has been created by an Executive Order of April 4, 1924. According to this regulation, the commercial attaché in, say London, may call on the American consul general for certain information which the consul is in position to provide. Prior to this arrangement, such requests could come only through the departments at Washington. Although not the consul's sole or even principal duty, the supplying of trade information for American commercial interests constitutes a service of first importance to American foreign trade.

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[9] *Consular Regulations*, Article XXVIII, par. 603, Note 4.

The Administrative functions which officers of the American Foreign Service are called upon to perform include

> enforcement of laws concerning American citizenship and passports; visa matters relating to foreigners who wish to travel in the United States or to emigrate thither; enforcement of the customs provisions as to invoices and valuations of goods shipped to the United States; legal requirements as to American shipping and seamen on American vessels; the issuance of bills of health, in conjunction with the Public Health Service, to all vessels proceeding to American ports; supervision of the disinfection of certain products shipped to the United States as required by the Department of Agriculture; taking custody under law of the estates of American citizens who die abroad; notarial services such as taking depositions, administering oaths, and authenticating documents, for use by Americans or foreigners in the United States and executing commissions to take testimony abroad issued from American courts. Out of these duties frequently arise varied problems affecting the persons involved, the local authorities and the governments of the territory where these functions are performed. In performing their functions under this category, officers are frequently under grave fiscal and legal responsibilities.[10]

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——— *American Foreign Service.*

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[10] *American Foreign Service*, p. 4.

CHAPTER VII

FOREIGN TRADE PROMOTION ACTIVITIES OF THE UNITED STATES GOVERNMENT: BUREAU OF FOREIGN AND DOMESTIC COMMERCE

The organic act of 1903 creating the Department of Commerce required it "to foster, promote and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishing industries, and the transportation facilities of the United States." Until 1913 it was known as the Department of Commerce and Labor, but the separate establishment of the Department of Labor, at that time, changed its name to Department of Commerce. Twelve important bureaus, which variously administer commercial statutes or promote commerce and industry, have been centered in this department.[1] Of these, the Bureau of Foreign and Domestic Commerce has become the Department's primary agency for the direct promotion of foreign trade. A domestic commerce division has been created in the Bureau and more attention is recently being given to domestic commerce than formerly, but its greatest interest has always been the promotion of foreign trade.

The Bureau was created in 1912 by consolidating the Bureau of Manufactures and the Bureau of Statistics. The first of these bureaus had been organized in 1904, while the Bureau of Statistics had functioned for nearly a century, originally as a part of the Treasury Department. The Bureau when first organized had no direct foreign representation. It was dependent upon consular officers for trade information obtained from abroad, and the channels through which foreign trade information was distributed to American business men were inadequate. The second of these handicaps was remedied by establishing district and coöperative offices in the larger cities throughout the

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[1] Bureau of Foreign and Domestic Commerce, Aëronautics Branch, Radio Division, Bureau of Census, Bureau of Standards, Bureau of Fisheries, Bureau of Lighthouses, Coast and Geodetic Survey, Steamboat Inspection Service, Bureau of Navigation, Patent Office, and Bureau of Mines. *See* Chapter VIII.

United States and by expanding and reorganizing the Bureau's central office at Washington. The Bureau continues to depend upon consular officers for a vast amount of trade information, and to function as a statistical organization, but it has passed far beyond this status in the direct and dynamic promotion of foreign trade through its own efforts.

FOREIGN COMMERCIAL SERVICE

The foreign service of the Department of Commerce dates from 1905 when a Congressional appropriation of $30,000 enabled the Secretary of Commerce and Labor to employ "special agents to investigate trade conditions abroad with the object of promoting the foreign commerce of the United States." In 1911 the designation of these traveling representatives was changed to "commercial agents," and in 1914 they became known as "trade commissioners." As the foreign service expanded and a record of experiences was attained it was felt that a more permanent basis should be established and that permanent offices should be maintained at the larger foreign capitals and trade centers. This was accomplished in large measure in an act of July, 1914, which carried an appropriation for the appointment of "commercial attachés." Some thirty-six "commercial attachés" and twenty-one "assistant commercial attachés" are now stationed at the permanent foreign offices of the Bureau of Foreign and Domestic Commerce. For a while the Bureau's trade commissioners continued to act as traveling representatives but later they, too, were stationed at permanent foreign offices. In 1929 fifty-six "trade commissioners" and twenty-one "assistant trade commissioners" were stationed abroad, many of them in foreign cities other than those at which commercial attachés are located.[2] Foreign offices are maintained at fifty-six important foreign capitals and trade centers. The foreign service also includes a number of special representatives who are sent abroad for specialized work in particular markets and who are maintained abroad either temporarily for a particular investigation or are more or less permanently located.[3]

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[2] Personnel as given in *Annual Report* of Director of Bureau of Foreign and Domestic Commerce, 1929, p. 23.

[3] Director of Bureau of Foreign and Domestic Commerce, *Annual Report of 1928.*

All told, the foreign commercial service of the Bureau includes a staff of 187 foreign service officers. An act of Congress of 1927 placed the service on a definite and permanent basis as the designated trade-promotive agency of the United States Government.[4]

Commerce is now being promoted through the foreign commercial service as a source of foreign trade information and as a direct trade-promotive agency. The primary functions of commercial attachés and trade commissioners vary in different foreign countries. In some of the newer, less known markets their primary duty, at least for a time, is to bring together much needed basic trade information. In other countries there is less need of such research work and more attention is immediately devoted to direct trade promotion. All of the foreign offices, however, are important sources of information. They report to the Bureau at Washington on foreign commercial and economic conditions; they "supply lists of foreign importers of particular commodities and report the names and locations of foreign companies which wish to handle American goods or act as sales agents for American manufacturers";[5] they forward promptly all available data concerning foreign tariff legislation, customs regulations, commercial law, foreign investments, taxation, etc., and they frequently make special market surveys or prepare commodity reports. Some of them have prepared comprehensive commercial handbooks of particular foreign countries. They regularly forward "trade opportunities" which are published by the Bureau in *Commerce Reports* and are, with specific information as to names and addresses of foreign importers, furnished to bona fide American exporters listed in the Bureau's "Exporters' Index." Trade opportunities are, of course, also reported by consular officers.

But commercial attachés and trade commissioners stationed at permanent foreign offices are able to aid American commerce very directly in many other ways. Many exporters have been enabled to make arrangements with satisfactory foreign agents or representatives through their efforts. Many sales have been made as the result of the prompt reporting of foreign government and private specifications, the answering of cable inquiries, the calling of American export products to the attention of foreign buyers, and the display of price lists and catalogues. They coöperate with local dealers' and producers' associations and with individual foreign business concerns, and aid American business men in planning itineraries and by introducing them to local firms and informing them of the latest local market developments. They frequently render a real service by solving difficulties in connection with foreign commercial laws and regulations, by clearing away installation difficulties, obtaining postponement of dates for filing bids on municipal contracts, adjusting trade-mark, customs and consular difficulties, and in other ways that mean dollars and cents to American commerce. When foreign government regulations or practices that impose unfair trade barriers are discovered, such as discriminating internal taxes, regulatory acts, import duties, or trade-mark piracy,[6] the commercial attachés confer with the staff members of the American embassies or legations with whom they are affiliated, with the result that relief is not infrequently obtained.

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[4] Hoch Act of March 3, 1927.

[5] *The United States Department of Commerce*, November 1, 1928, p. 11.

The foreign offices of the Bureau of Foreign and Domestic Commerce also take an active part in adjusting trade disputes. When the assistance of the Bureau is solicited commercial attachés and trade commissioners serve as mediators. Many instances of satisfactory voluntary adjustment through their efforts are cited. Sometimes they are able to render a valuable service by locating purchasers for refused merchandise or making practical suggestions for their disposition through new trade channels.

WASHINGTON HEADQUARTERS ORGANIZATION

The organization of the Bureau of Foreign and Domestic Commerce at Washington, D. C., includes the Director of the Bureau as a whole; four assistant directors, each of whom is in charge of one or more branches of the Bureau's work; an administrative assistant; four general administrative divisions—correspondence and distribution, editorial, district offices, and foreign service; seventeen commodity divisions; a division of regional information; and eight technical divisions. Each division is

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[6] "Department of Commerce Promotes Exports of Automotive Products," 1928, p. 16.

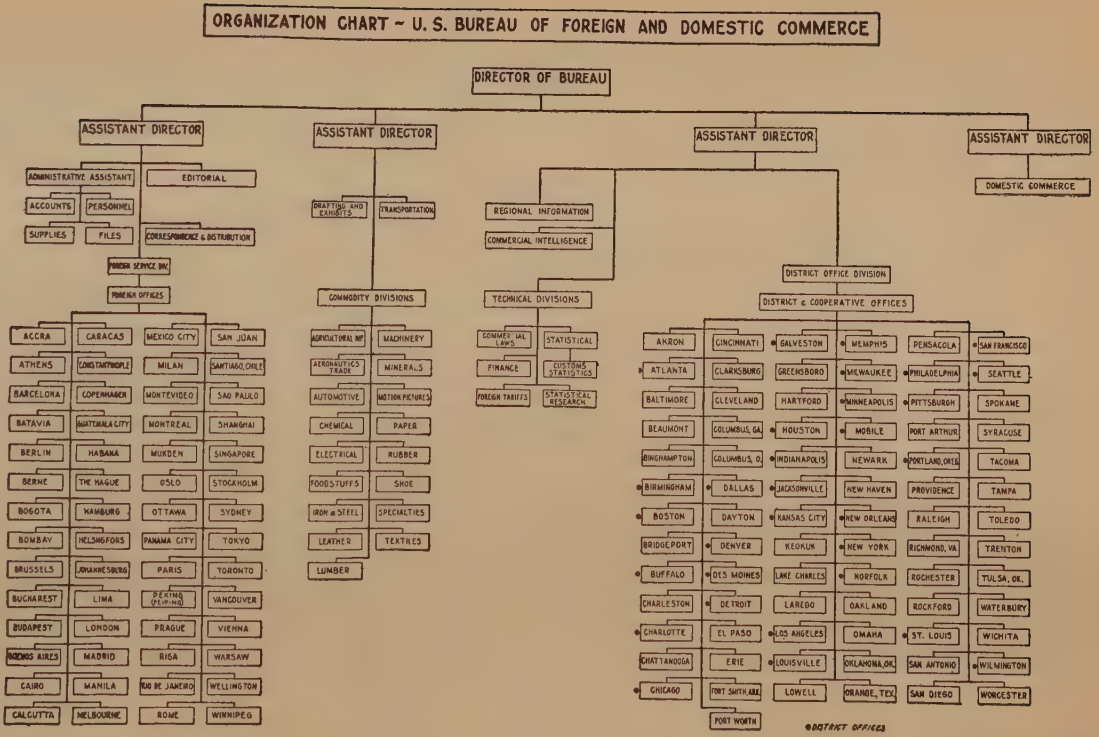
ORGANIZATION CHART ~ U. S. BUREAU OF FOREIGN AND DOMESTIC COMMERCE
DIRECTOR OF BUREAU
ASSISTANT DIRECTOR
ADMINISTRATIVE ASSISTANT
EDITORIAL
ACCOUNTS
PERSONNEL
SUPPLIES
FILES
CORRESPONDENCE & DISTRIBUTION
FOREIGN SERVICE DIV.
FOREIGN OFFICES
ACCRA
ATHENS
BARCELONA
BATAVIA
BERLIN
BERNE
BOGOTA
BOMBAY
BRUSSELS
BUCHAREST
BUDAPEST
BUENOS AIRES
CAIRO
CALCUTTA
CARACAS
CONSTANTINOPLE
COPENHAGEN
GUATEMALA CITY
HABANA
THE HAGUE
HAMBURG
HELSINGFORS
JOHANNESBURG
LIMA
LONDON
MADRID
MANILA
MELBOURNE
MEXICO CITY
MILAN
MONTEVIDEO
MONTREAL
MUKDEN
OSLO
OTTAWA
PANAMA CITY
PARIS
PEKING (PEIPING)
PRAGUE
RIGA
RIO DE JANEIRO
ROME
SAN JUAN
SANTIAGO, CHILE
SAO PAULO
SHANGHAI
SINGAPORE
STOCKHOLM
SYDNEY
TOKYO
TORONTO
VANCOUVER
VIENNA
WARSAW
WELLINGTON
WINNIPEG
ASSISTANT DIRECTOR
DRAFTING AND EXHIBITS
TRANSPORTATION
COMMODITY DIVISIONS
AGRICULTURAL IMP.
AERONAUTICS TRADE
AUTOMOTIVE
CHEMICAL
ELECTRICAL
FOODSTUFFS
IRON & STEEL
LEATHER
LUMBER
MACHINERY
MINERALS
MOTION PICTURES
PAPER
RUBBER
SHOE
SPECIALTIES
TEXTILES
ASSISTANT DIRECTOR
REGIONAL INFORMATION
COMMERCIAL INTELLIGENCE
TECHNICAL DIVISIONS
COMMERCIAL LAWS
FINANCE
FOREIGN TARIFFS
STATISTICAL
CUSTOMS STATISTICS
STATISTICAL RESEARCH
DISTRICT OFFICE DIVISION
DISTRICT & COOPERATIVE OFFICES
AKRON
ATLANTA
BALTIMORE
BEAUMONT
BINGHAMPTON
BIRMINGHAM
BOSTON
BRIDGEPORT
BUFFALO
CHARLESTON
CHARLOTTE
CHATTANOOGA
CHICAGO
CINCINNATI
CLARKSBURG
CLEVELAND
COLUMBUS, GA.
COLUMBUS, O.
DALLAS
DAYTON
DENVER
DES MOINES
DETROIT
EL PASO
ERIE
FORT SMITH, ARK.
PORT WORTH
GALVESTON
GREENSBORO
HARTFORD
HOUSTON
INDIANAPOLIS
JACKSONVILLE
KANSAS CITY
KEOKUK
LAKE CHARLES
LAREDO
LOS ANGELES
LOUISVILLE
LOWELL
MEMPHIS
MILWAUKEE
MINNEAPOLIS
MOBILE
NEWARK
NEW HAVEN
NEW ORLEANS
NEW YORK
NORFOLK
OAKLAND
OMAHA
OKLAHOMA, OK.
ORANGE, TEX.
PENSACOLA
PHILADELPHIA
PITTSBURGH
PORT ARTHUR
PORTLAND, ORE.
PROVIDENCE
RALEIGH
RICHMOND, VA.
ROCHESTER
ROCKFORD
ST. LOUIS
SAN ANTONIO
SAN DIEGO
SAN FRANCISCO
SEATTLE
SPOKANE
SYRACUSE
TACOMA
TAMPA
TOLEDO
TRENTON
TULSA, OK.
WATERBURY
WICHITA
WILMINGTON
WORCESTER
● DISTRICT OFFICES
ASSISTANT DIRECTOR
DOMESTIC COMMERCE

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CHART II. ORGANIZATION OF THE UNITED STATES BUREAU OF FOREIGN AND DOMESTIC COMMERCE under the immediate supervision of a division chief. A more detailed idea of the Bureau's business organization may be obtained from the accompanying chart.

In 1921 the Bureau was thoroughly reorganized so as to bring it into accord with the views of Mr. Hoover, then Secretary of Commerce. The old organization included a number of technical divisions, but depended mainly upon regional divisions for the assembly and distribution of trade information and trade promotion. The new organization retains a Regional Information Division, but depends to a much larger extent than formerly upon divisions specializing in specific commodities—agricultural implements, aëronautics trade, automotive, chemical, electrical equipment, foodstuffs, hides and leather, iron-steel-hardware, lumber, machinery, minerals, motion pictures, paper, rubber, shoe and leather manufacturers, specialties and textiles. A division known as the Transportation and Communication Division, moreover, serves both as a technical division in the general field of transportation and communication and as a commodity division in the promotion of transportation and communication equipment. Each commodity division, under the immediate guidance of a chief, is "a self-contained unit, which, for all practical purposes, represents a little corporation all its own, doing everything except actually selling goods and collecting bills. In some cases it even helps in the latter procedure."[7] It was felt that effective trade promotion is more largely a matter concerning specific commodities and industries than regions or territorial divisions, and that each commodity division should be headed by a chief having experience in the sale of the products assigned to him and "first-hand knowledge of the problems confronting American exports in foreign markets."[8] The major industries were requested to recommend the names of suitable commodity division chiefs, and also to appoint advisory committees to "summarize opinion in the industry, bring about concerted action without delay, and enable the Department promptly to transmit ideas for expansion."[9]

The commodity divisions endeavor to keep their respective industries constantly in touch with trade conditions both at home and abroad; they "direct and guide the field officers of the bureau in investigations designed to develop new markets or to eliminate waste in distribution"; they endeavor to promote profitable trade connections. Through the commercial attachés and trade commissioners of the Bureau, through special experts sent abroad to make special investigations, and through the consular officers of the Department of State, the commodity divisions endeavor to furnish a stream of trade information of the exact kind most needed in effective trade promotion. Specific commodity information is conveyed directly to the American business firms through the medium of district and coöperative offices, by correspondence, and in publications. Commodity items are regularly published in *Commerce Reports*, and the commodity divisions prepare many printed and mimeographed bulletins.

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[7] Isaac F. Marcosson, *Caravans of Commerce*, p. 102.

[8] *Practical Aids to American Business*, United States Department of Commerce, 1926, p. 2.

[9] Marcosson, *op. cit.*, p. 103.

The primary functions of the Bureau's Regional Information Division is described as follows: "Supplementing and aiding the work of the commodity branches, the Bureau maintains a regional division, whose function it is to keep the commodity branches, and through them the industries, generally informed concerning current economic, commercial, and financial conditions in each foreign country, as an aid in determining the availability of markets at particular times and for particular products. The regional division answers directly many inquiries received from American manufacturers and importers, and prepares for publication the weekly and monthly cable reports of commercial attachés and trade commissioners describing general trade conditions in the countries where they are stationed."[10] On the basis of reports received from the Bureau's Foreign Commercial Service and from consular officers, and of material obtained from other authoritative sources by its trade experts, economists and linguists, the division prepares trade information bulletins, commercial handbooks, commercial travelers' guides, and special circulars on a wide range of subjects. Typical special circulars prepared in this division and distributed in mimeographed form are *Russian Economic Notes* and *Commercial Notes on Canada*, issued weekly; living costs for Americans; living and office operating expenses and commercial travelers' itineraries in particular foreign countries; sales territories in Far Eastern areas, and the stabilization of the franc. This division also coöperates with the Division of Statistical Research in preparing the Bureau's *Commerce Yearbook*, and many items published in *Commerce Reports* are prepared by it. Regional information is frequently provided for the uses of other departments of the Government, such as the Departments of War and Agriculture.

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[10] *The United States Department of Commerce*, Nov. 1, 1928, p. 13.

The Commercial Intelligence Division compiles the Bureau's card index known as the *World Trade Directory* in which reports on nearly 400,000 individual foreign business concerns are recorded. Its trade-list service maintains a file of the names and addresses of over 600,000 foreign buyers. The division also renders assistance in selecting foreign agents or representatives, and issues reports currently on foreign firms experiencing financial difficulties or resorting to unfair business practices.

The primary object of the Commercial Laws Division "is to render practical help to American concerns facing legal problems in their trading operations abroad."[11] Its section of legal information compiles information concerning the commercial laws and practices of all foreign countries. Taxation, registration, incorporation, consignments, chattel mortgages, installment selling, and other legal requirements are included in its files for the information of American trading concerns and their legal counsel. It also maintains reference lists of foreign attorneys and of American legal firms specializing in foreign commercial law practice. Its patent and trade-mark section compiles current information concerning patents, trade-marks, and copyright laws, reviews trade-mark disputes called to its attention and suggests a course of procedure, brings to the attention of American business firms instances of trade-mark piracy reported by the Bureau's foreign commercial service, and investigates unfair competitive practices. It also maintains reference lists of American legal firms specializing in foreign patent and trade-mark laws, and of foreign patent and trade-mark attorneys. Its insurance and trade adjustments section reviews trade disputes, coöperates with the commodity divisions and with consular officers, commercial attachés and trade commissioners in bringing about adjustments, and advises exporters in the matter of foreign collections. It also provides information concerning foreign insurance, workmen's compensation and pension laws.

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[11] *Practical Aids to American Business*, p. 6.

The Finance and Investment Division is prepared to furnish information relative to foreign financing methods, per capita wealth in particular countries, the public finances of foreign governments, foreign banking facilities, foreign exchange, international credit methods, security issues, and opportunities for the investment of American capital abroad. "Whenever such investments offer an opportunity for the sale of American goods and services, the appropriate commodity divisions advise contracting firms, manufacturers, supply houses, and others that may be interested." The division is also a source of current statistics of foreign investments, and it has, for a number of years, prepared the Bureau's annual bulletin detailing the balance of international payments of the United States discussed in Chapter I.

The Division of Foreign Tariffs compiles and currently advises American business men concerning foreign tariff laws and import duties, consular and customs regulations, commercial travelers' fees, laws concerning the admission of advertising material and samples, and pure food laws. Much current information relating to matters of this character is prepared for publication in *Commerce Reports* and in special bulletins, more is disseminated in direct advices to interested firms.

The Division of Statistics prepares many of the current statistical reports that are published by the Bureau of Foreign and Domestic Commerce. The official statistics of imports and exports as originally compiled by the Customs Service of the Treasury Department are prepared for publication each month in the Bureau's *Monthly Summary of Foreign Commerce of the United States*, and in order to provide more detailed statistical data to interested parties the division also prepares over 250 special mimeographed statements each month showing the exports and imports of important commodities by countries and customs districts. Weekly reports covering the movement of certain commodities are also prepared. Detailed foreign trade statistics of exports and imports, customs collections, vessel entrances and clearances, customs drawbacks, etc., for the year are published in the annual volume known as *Foreign Commerce and Navigation of the United States.*

The Statistical Research Division is charged with the preparation of the *Commerce Yearbook* which in two comprehensive volumes reviews the commerce, production, and general economic conditions of the United States and foreign countries. In preparing the data concerning foreign countries it has the co-operation of the Division of Regional Information, and many data are obtained through the foreign offices of the Bureau and through the Consular Service. It also prepares the *Statistical Abstract of the United States*, and current bulletins analyzing the foreign trade of the United States. It prepares commercial maps for publication and performs other technical geographic services and provides an extensive translation service for the Bureau.

For some years the Bureau paid little attention to domestic commerce, but more recently important domestic trade studies and services have been undertaken. The Domestic Commerce Division is making a series of regional market surveys and industrial, market, and retail credit studies. It is also making studies of methods of cost analysis designed to eliminate waste and reduce distribution costs, and of marketing and merchandising methods and trade practices in particular industries and trade regions. It publishes domestic trade information in special bulletins and serves as a clearing house for "such information on commercial and industrial questions as may be available from the Government departments or from various nongovernmental sources."[12] It publishes a weekly bulletin known as *Domestic Commerce* which serves as a valuable domestic trade journal. Several other divisions, moreover, are not concerned exclusively with foreign trade. The commodity divisions not infrequently provide information concerning certain phases of domestic marketing. Several of the reports prepared by the division of Statistical Research cover domestic as well as foreign trade and industry. The Division of Transportation and Communications is making studies of domestic as well as foreign inland waterways, and has undertaken other studies of importance in domestic commerce and transportation.

The Division of Transportation and Communications covers the fields of communications, shipping, shipping research, packing and material handling, inland waterways, and railways. As a source of information on transportation and communications it covers a wide range of subjects such as current developments in telephone, cable, radio, and postal communication; shipping conditions at home and abroad; current shipping legislation; ocean and railroad rates; industrial traffic management; the place of motor trucks in distribution; port charges, regulations and facilities;[13] fuel bunkering; bills of lading developments; warehousing; mechanical handling facilities and methods; packing and marking, and, in coöperation with the Bureau of Standards, it has made studies of standardized and simplified containers. It analyzes the volume of international commerce, prepares lists of ocean freight forwarders, advises shippers as to freight rates and shipping charges, and informs them as to the procedure of steamship conferences. As a commodity division it handles trade opportunities for the sale of transportation and communication equipment in foreign markets and generally aids the equipment exporter. It also clears the Bureau's incoming and outgoing telegrams, cables, radiograms, and special delivery mail.

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[12] *The United States Department of Commerce,* Nov. 1, 1928, p. 14.

DISTRICT AND COÖPERATIVE OFFICES

The Bureau reaches the business man through publications distributed from Washington, through direct correspondence and personal interviews by the Bureau's headquarters organization, through the personal contacts of its foreign commercial services, and through district and coöperative offices maintained at the larger cities throughout the United States. At present there are thirty-one district offices, each under the immediate direction of a District Manager. These offices serve as local distributing centers for the numerous publications of the Bureau and as local points of contact for the giving of aid and advice. They also endeavor to ascertain the needs of their respective business communities, to ''establish closer relations between Government and private agencies,'' to arrange conferences between business men and commercial attachés, trade commissioners, and consular officers when they are in the United States during leave of absence and to maintain local files of Bureau information so far as space permits. The district offices have been described as the Bureau's local ''service stations.'' Arrangements have also been effected with local chambers of commerce and other commercial organizations for the maintenance of coöperative offices at forty-eight additional American trade centers.

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[13] In coöperation with United States Shipping Board.

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——— *Commerce Reports* (weekly).

CHAPTER VIII

FOREIGN TRADE PROMOTION ACTIVITIES OF THE UNITED STATES GOVERNMENT: OTHER DEPARTMENTS

In a country such as the United States, where domestic commerce greatly exceeds foreign trade in value and volume, a wholly consistent foreign trade policy is difficult to obtain. Conflicting interests are constantly in evidence and many of the agencies directly or indirectly charged with the duty of trade promotion or regulation are concerned both with domestic and international commerce. The combined foreign trade promotion activities of the United States Government are vested in a number of loosely coördinated—virtually separate—administrative agencies. Congress, of course, is a basic factor, by virtue of the trade promotion and regulatory statutes enacted by it, and in the approval or rejection by the Senate of commercial treaties and the more important appointments.

Tariff policy and the trade information and promotion activities of the Departments of State and Commerce exercised through the American Foreign Service and the Bureau of Foreign and Domestic Commerce have been discussed in earlier chapters.[1] In discussing tariff policy it was noted that important administrative powers are vested in the President and that the Tariff Commission has become an important agency of investigation and recommendation. The actual application of customs duties and regulations to imported cargoes is vested in the Customs Service of the Treasury Department as a regulatory function.[2]

DEPARTMENT OF COMMERCE

The Department of Commerce, aside from the direct promotion of foreign trade through the Bureau of Foreign and Domestic Commerce and its foreign commercial service, aids and regulates foreign and domestic commerce through eleven other bureaus or branches of service.

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[1] *See* Chapters IV, VI, and VII.

[2] *See* Chapter XLIV.

The Bureau of Standards no longer confines its activities to the establishment and maintenance of national standards of "weights and measures." It has benefited not only the Government, but also private commerce and industry by its research activities in connection with standards of practice and standards of performance. It has played an active rôle in increasing the durability and usefulness of many of the commodities of commerce. The special function of its division of simplified practice is "to aid the various industries to standardize, as far as practicable, the grades, types, and sizes of the commodities which they produce for market and nomenclature applicable thereto, in order to reduce, or eliminate, the wastes which result from excessive variety."[3]

The Bureau of Mines has done much to reduce "waste in the mining, quarrying, metallurgical, and other industries, to conserve the country's mineral resources, and to safeguard the health and lives of the miners." It has made valuable studies of the uses of fuels, and it systematically compiles production and consumption statistics of the mineral industries. Its economics branch makes studies of the economic problems of the mineral industries.

The Patent Office, in connection with its primary work of issuing letters of patent, does a vast amount of scientific and legal work. It also registers trade-marks, prints and labels used in foreign trade and interstate commerce.

The Bureau of the Census compiles and publishes the social, fiscal, industrial and distribution census statistics of the United States Government.

The Bureau of Fisheries is a "conservation agency to which the States look for guidance and help in conserving and replenishing the supply [of fish], and upon which the trade depends for information and assistance." It conducts biological investigations, operates fish-cultural stations and substations, studies technology with a view to preventing waste, improving methods, reducing costs and utilizing by-products and available marine products, and it collects extensive fishing statistics. In Alaska the Bureau exercises direct administrative control over the fishing and fur-seal industries.

Several of the services of the Department of Commerce are concerned with shipping. The Bureau of Lighthouses aids shipping by establishing and operating lighthouses, lightships, fog signaling stations, buoys, harbor lights, and radio beacons for the protection of ocean and Great Lakes vessels and frequently also by rendering aid to vessels or persons in distress. Its airways division, as part of the Aëronautics Branch of the Department of Commerce, examines airways and intermediate landing fields and erects and maintains beacons, radio stations, and other aids to air transportation. "The Coast and Geodetic Survey is charged with the charting of the coasts and the coastal waters of the United States and its outlying territories and possessions; the extension of triangulation, leveling, and gravity surveys over the entire area of the United States and its outlying areas; the determination of tidal datum planes; the prediction of tides and currents; and the operation of magnetic and seismological observatories and the extension of a magnetic survey over the United States and its outlying areas."[4] This service has also been directed to produce maps for use in air transportation over the commercial airways of the United States.

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[3] *The United States Department of Commerce*, Nov. 1, 1928, p. 30.

The duties of the Department's Steamboat Inspection Service and Bureau of Navigation are mainly regulatory in character. The former inspects merchant vessels, examines and licenses officers and examines and certificates able seamen and lifeboat men. The Bureau of Navigation is generally responsible for the enforcement of the navigation laws of the United States. It depends upon the customs officers of the Treasury Department for the application of many of these laws, the Bureau performing the general function of interpretation, reviewing of disputes, examination of accounts, and supervision. It also reports to Congress upon the effect of the navigation laws upon the merchant marine, makes recommendations, publishes the navigation laws and compiles and publishes merchant marine statistics. Its Shipping Commissioners supervise the shipment of seamen aboard American merchant vessels at the more important ports of the United States, enforce the navigation laws governing the shipment and discharge of seamen, the payment of their wages and their food requirements, arbitrate disputes between crews and officers and generally enforce the navigation laws governing the employment and treatment of the crews of American merchant vessels. At other ocean ports in the United States these duties are performed by the customs collectors of the Treasury Department and at foreign ports by the consular officers of the Department of State.

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[4] *Op. cit.*, p. 40.

The Aëronautics Branch of the Department of Commerce under the immediate direction of a Director and the general direction of the Assistant Secretary for Aëronautics, brings together the activities of the airways division of the Bureau of Lighthouses, the airway mapping section of the Coast and Geodetic Survey, the aëronautical research division of the Bureau of Standards, and two newly created special divisions—the Division of Air Regulations and the Division of Air Information. In this the Department maintains the machinery needed to administer the Air Commerce Act of 1926, in so far as it confers regulatory powers upon the Secretary of Commerce and makes it his duty to foster interstate and foreign air commerce.

The Radio Division of the Department of Commerce inspects licensed radio stations both on land and at sea, examines and licenses radio operators, and performs all field work necessary for enforcement of the Federal Radio Act. The determination of power, wave lengths, hours of operation, and the important question of who shall receive licenses to operate, however, remains in the hands of the Federal Radio Commission.

DEPARTMENT OF AGRICULTURE

The Department of Agriculture remains an important special trade agency in the promotion and regulation of agricultural and forest exports and imports. The activities of its Bureaus of Agricultural Economics, Animal Industry, Dairy Industry, Chemistry and Soils, and Plant Industry, and those of the Forest Service, the Biological Survey, the Bureau of Entomology and the Weather Bureau are mainly domestic in character, but directly or indirectly they also include foreign trade and commerce with the outlying possessions of the United States. These bureaus maintain abroad a large number of representatives, and affiliated collaborators, some of whom are engaged in scientific work and others in the commercial aspects of agriculture. The latter are concerned with varying phases of farm management, market reporting, foreign competition, foreign markets for farm products, and other aspects of agricultural economics.

The Bureau of Agricultural Economics is actively engaged in studying the foreign market demand for farm products and in making investigations of competitive foreign grains, fruits and animal products. It publishes foreign market and crop reports and statistical and other data concerning the production and movement of agricultural crops abroad. "The department's specialists explain to foreign buyers the standards for American farm products and advise American producers and shippers with regard to foreign marketing conditions. Much information is received in the department from its foreign offices, from the consular service, from commercial attachés, and from the International Institute of Agriculture. This information is supplemented by special reports on the economic situation in foreign countries as it affects the demand for American agricultural products. Surveys are made of production and trends of production in foreign countries for the purpose of informing American producers with regard to the competition they must expect."[5] The Bureau's fruit and vegetable inspection services, its warehouse licensing and supervision service, its farm management work, and its standardization and grading activities also play an important rôle in commerce—foreign as well as domestic. The regulatory powers of the Grain Futures Administration similarly influence both branches of commerce.

The Bureau of Animal Industry performs a very direct foreign trade function by supervising the exportation of meat products and livestock through its meat and livestock inspection service. The Food, Drug, and Insecticide Administration of the Department of Agriculture, jointly with the Treasury Department supervises imported foods and drugs. The Weather Bureau has largely reduced the dangers to which ocean shipping and air transportation are exposed by issuing weather forecasts and storm warnings.

FEDERAL FARM LOAN BOARD AND FEDERAL FARM BOARD

Several other Government agencies are primarily concerned with agricultural commerce. The Federal Farm Loan Board administers the Federal Farm Loan Act of 1916 and the Agricultural Credits Act of 1923, both of which were designed to aid American agriculture by providing more liberal agricultural credits.[6] The Federal Farm Board is charged with the administration of the Agricultural Marketing Act of 1929. The Act provides for the creation of advisory commodity committees, stabilization corporations, commodity clearing house associations, and for loans from a Government fund aggregating $500,000,000. The Board is especially instructed:

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[5] *Annual Report* of Secretary of Agriculture for 1928.

> (1) to promote education in the principles and practices of coöperative marketing of agricultural commodities and food products thereof; (2) to encourage the organization, improvement in methods, and development of effective coöperative associations; (3) to keep advised from any available sources and make reports as to crop prices, experiences, prospects, supply, and demand, at home and abroad; (4) to investigate conditions of overproduction of agricultural commodities and advise as to the prevention of such overproduction, and (5) to make investigations and reports and publish the same, including investigations and reports upon the following: land utilization for agricultural purposes; reduction of the acreage of unprofitable marginal lands in cultivation; methods of expanding markets at home and abroad for agricultural commodities and food products thereof; methods of developing by-products of and new uses for agricultural products; and transportation conditions and their effect upon the marketing of agricultural commodities.

The primary policy expressed in the Act to "promote the effective merchandising of agricultural commodities in interstate and foreign commerce, and to place agriculture on a basis of economic equality with other industries" is as follows:

> That it is hereby declared to be the policy of Congress to promote the effective merchandising of agricultural commodities in interstate and foreign commerce, so that the industry of agriculture will be placed on a basis of economic equality with other industries, and to that end to protect, control, and stabilize the currents of interstate and foreign commerce in the marketing of agricultural commodities and their food products (1) by minimizing speculation; (2) by preventing inefficient and wasteful methods of distribution; (3) by encouraging the organization of producers into effective associations or corporations, under their own control for greater unity of effort in marketing and by promoting the establishment and financing of a farm

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[6] *See* G. G. Huebner, *Agricultural Commerce,* Chapter XIX.

marketing system of producer-owned and producer-controlled coöperative associations and other agencies; (4) by aiding in preventing and controlling surpluses in any agricultural commodity, through orderly production and distribution, so as to maintain advantageous domestic markets and prevent such surpluses from causing undue and excess fluctuations or depressions in prices for the commodity.

An effort was made to insert a section providing for the issue of export debentures amounting to two cents per pound of cotton exported and one-half of the import duty currently in effect on other farm products, but this plan failed of enactment.[7]

TREASURY DEPARTMENT

The Treasury Department, through the Customs Service, administers all customs regulations, imposes import duties, compiles the Government's basic import, export and vessel entrance and clearance statistics which are published by the Department of Commerce, administers the entrance and clearance of vessels and cargoes at American ports, and applies a number of the Government's navigation laws. Through the United States Coast Guard it operates the life-saving and revenue cutter services of the Government. Its Bureau of Public Health, in coöperation with State authorities, enforces the nation's health and quarantine regulations at ocean ports.

DEPARTMENT OF WAR

The Department of War through the Corps of Engineers applies the huge appropriations of Congress for river and harbor improvements. It constructs breakwaters, excavates channels, dredges harbors, and makes port and channel surveys and investigations and recommendations to Congress. Extensive reports covering many ocean ports have been published jointly by the Corps of Engineers and the Shipping Board. The Corps of Engineers also defines the pier head limit beyond which piers and wharves may not be constructed in harbors, and exercises police power relative to the dumping of material in navigable waters. Through the Inland Waterways Corporation, the Department of War endeavors to aid commerce by operating barges on the Mississippi and Warrior rivers. Its Bureau of Insular Affairs publishes import, export, shipping, and immigration statistics relative to the Philippine Islands and Porto Rico. Congress and the Philippine Legislature enact the statutes governing the commerce and shipping of the Philippine Islands, but these statutes are administered under the supervision of a Governor-General who reports to the Secretary of War, and the commerce and shipping of the Islands are promoted through executive bureaus which are parts of the Philippine Government. The Governor of Porto Rico also reports to the Secretary of War.

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[7] *See* Chapter V.

THE NAVY DEPARTMENT

The Navy Department, aside from the protection afforded to commerce and shipping during war periods, aids shipping very directly through the Hydrographic Office which publishes nautical charts, manuals of instructions, bulletins, and sailing directions, and broadcasts urgent information to vessels. The Naval Observatory of the Navy Department aids shipping by publishing valuable astronomical data, testing navigation instruments and establishing standard time and differences of longitude. Guam, the Virgin Islands and American Samoa, moreover, are within the jurisdiction of the Navy Department.

DEPARTMENTS OF INTERIOR AND LABOR

The Department of the Interior supervises the commercial development of Alaska and the Hawaiian Islands, the Governor of each of these outlying territories reporting to the Secretary of the Interior. It has for many years played a part in the production and distribution of the mineral products of the United States, through the efforts of the Geological Survey.

The Department of Labor performs a foreign trade service by publishing information concerning wages, prices, and living costs in foreign countries. The National Museum maintains commercial and industrial exhibits.

THE POST OFFICE DEPARTMENT

The Post Office Department, too, is a foreign trade promotion agency. It provides the international mail service, the importance of which is emphasized in Chapter XX. The Department also aids shipping by making the mail payments to ocean carriers authorized by law. Under the Merchant Marine Act of 1928 the Postmaster General and Shipping Board cooperate in determining the routes over which special mail contracts are to be effected and the Postmaster General is authorized to enter into contracts with American ocean liners, the purpose of the contracts being not only to provide improved mail transportation at sea but to promote American shipping and commerce. Other ocean carriers are compensated on the basis of the amount of mail carried by them. The Post Office Department also negotiates the terms governing the transport of mail to foreign destinations via air routes.[8]

UNITED STATES SHIPPING BOARD AND SHIPPING POLICY

The shipping policy of the United States Government is becoming more comprehensive and more directly related to the welfare of American commerce and industry. It is at once regulatory and promotive. The registration of vessels in the foreign trade, their measurement, tonnage taxation, inspection and equipment with life-saving appliances, the nationality and licensing of officers, the size of crews, their qualifications under the Seaman's Act, the control of their wage payments, their employment on the basis of shipping agreements, their quarters and food requirements, working hours, etc., and other matters relating to the protection of vessel and personnel, seaworthiness, and safety of the traveling public are regulated in detail in the general navigation laws of the United States.[9] The entrance and clearance of vessels are similarly provided for in the navigation laws and customs regulations. The regulation of charges and practices directly affecting the shipping public is provided for in the Shipping Act of 1916 and the Merchant Marine Act of 1920. Ocean conference arrangements are subject to supervision by the Shipping Board, various defined classes of discrimination and unjust practices are outlawed, and when the Board finds instances of unjust discrimination in the foreign trade it may "alter the same to the extent necessary to correct such unjust discrimination or prejudice, and make an order that the carrier shall discontinue demanding, charging, or collecting any such unjustly discriminatory or prejudicial rate, fare, or charge." The regulatory powers of the Shipping Board over private shipping in the coastwise trade are more comprehensive.[10] Full or partial control over the rates and practices of the Government lines operated in the foreign trade, moreover, is reserved by the Shipping Board in the contracts or agreements under which such lines are operated for the Government by private American steamship companies.

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[8] Act of March 8, 1928; amended March 2, 1929.

[9] *See* Johnson, Huebner and Wilson, *Principles of Transportation*, Chap. LIV.

The Interstate Commerce Commission is an indirect factor in foreign trade shipping in that it is authorized to regulate the railroad rates under which ocean cargoes move to and from the ports, the ocean terminals used by the railroads, and their terminal charges, rules and practices. When ocean and rail lines enter into traffic agreements the Commission "may require such railway to enter into similar arrangements with any and all other lines of steamships operating from said port to the same foreign country." The Commission has also prescribed a uniform through export bill of lading. As in case of the regulatory powers of the Shipping Board, the Commission possesses more extensive powers over traffic moving over rail-ocean routes in domestic commerce.

Government aid to ocean shipping in the United States is twofold: (1) An effort is made in the interest of commerce to aid navigation and shipping as a whole, foreign as well as American, and (2) a policy of public aid to a distinctly American merchant marine is gradually being put into effect. The river and harbor improvements and the activities of the Bureau of Lighthouses, the Coast and Geodetic Survey, the Coast Guard, the Weather Bureau, the Hydrographic Office, and the United States Naval Observatory in promoting safety of navigation are indicative of the former. The merchant marine policy of the United States is embodied in the Shipping Act of 1916, in the Merchant Marine Acts of 1920 and 1928, and in certain general navigation laws.[11]

The outstanding features of the policy of aid to American vessels operating in the foreign trade may be briefly summarized as follows:

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[10] *Ibid.*, pp. 662-673.

[11] For full account *see ibid.*, Chap. LVI.

(1) The sale of Government-owned merchant vessels and lines to private American steamship companies when in the judgment of the Shipping Board "the building up and maintenance of an adequate merchant marine can be best served thereby," an affirmative vote of five members of the Board being necessary to validate a sale.

(2) The continued operation of Government lines until a basis of private operation sufficiently broad to provide an adequate merchant marine shall have been attained. Much progress has been made during the past two years in the sale of Government lines, and private American ocean services with a measure of public aid may be regarded as the accepted policy of the future.

(3) A construction loan fund of $250,000,000 from which funds are loaned to private American companies for the construction, equipment, outfitting, or remodeling of vessels in American shipyards.

(4) Increased mail contract payments to private American ocean lines operating over approved routes, and additional payments when airplanes or airships are required to be used in conjunction with vessels operating under mail contracts. Although the nationality of the crew of American vessels not operated under mail contracts is not defined in the navigation laws of the United States, the Merchant Marine Act of 1928 provides that one-half of the members of mail contract vessels must be American citizens during the first four years following the enactment of this law and two-thirds thereafter. All licensed officers of mail contract vessels as well as of all other vessels documented under the registry laws of the United States must be American citizens.

(5) Indirect aid is afforded in the free shipping policy adopted in 1912 and 1924 under which merchant vessels may be constructed or acquired abroad by American citizens or companies for registry in the foreign trade, in the revision of the vessel measurement rules so as to bring them more nearly into line with the measurement rules of competitive foreign nations, in the regulation of ocean line conference arrangements so as to protect American lines against unfair competitive practices and

to facilitate their becoming members of established conferences.[12] Two provisions designed to aid American shipping by means of discrimination were inserted into the Merchant Marine Act of 1920, but neither section has thus far become operative. Section 28 was intended to limit the special railroad export and import freight rates applicable at many ocean ports of the United States to freight moving from or to these ports in American vessels, the enforcement of the section depending upon certification by the Shipping Board to the Interstate Commerce Commission that adequate shipping facilities are afforded by American vessels. The tariff act of 1913 contained a clause providing for discrimination in customs duties in favor of imports arriving in American vessels, and, when numerous general commercial treaties were found to prevent its enforcement, section 35 of the Merchant Marine Act of 1920 instructed the President to serve notice on all Governments parties to such treaties that treaty provisions imposing such restrictions upon the United States are to be terminated. Such action has, however, not been taken.

The increasing attention being devoted to the maintenance and development of an American merchant marine is due mainly to a better realization of the dependence of foreign trade upon efficient steamship services and favorable ocean freight rates. The shipping handicaps suffered in the competitive trades in the past were solved mainly by the acquisition of a substantial American merchant marine to supplement foreign shipping services. The problem now is to prevent American foreign trade shipping from reverting to its pre-War position.

FEDERAL RESERVE BOARD AND FEDERAL TRADE COMMISSION

At least two other Government agencies are performing functions of very direct importance in international commerce. The Federal Reserve Board supervises many of the banks through which exports and imports are financed, credits are extended and foreign investments are made. Its publications, moreover, are an important source of information concerning the exportation of capital, financial and economic conditions at home and abroad and foreign banking facilities.

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[12] For discussion of additional miscellaneous provisions of the navigation laws and of the Shipping and Merchant Marine Acts see *ibid.*

The Federal Trade Commission administers the Webb-Pomerene Act of 1918 in which Congress took steps to encourage coöperative exporting.[13] It also administers the Federal Trade Commission Act of 1914 which prohibits unfair business practices and methods of competition in interstate and foreign commerce.

> In the interest of the foreign commerce of this country, the Federal Trade Commission investigates complaints against American importers and exporters which may be reported by American consulates or trade officers in foreign countries, chambers of commerce and other trade associations, or by private individuals. Such investigations are made informally, without publicity, and the facts ascertained are reported back to the foreign country through representatives of the United States Departments of State and Commerce. . . . The efforts of the Government along this line have been commended by commercial organizations in this country, and the foreign offices of the United States Department of State report that the work is of great value in promoting confidence in American goods and tradesmen.[14]

The United States is party to a number of international agencies that promote trade in general or govern particular aspects of international commerce. The Pan-American Union, for example, which is maintained jointly by the United States and other American republics, has accomplished much to stimulate commerce and promote friendly relations between the republics of the Western Hemisphere. Other joint organizations are referred to subsequently in discussing commercial treaties.[15]

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[13] *See* Chapter XXII.

[14] *Annual Report* of Federal Trade Commission, 1926, pp. 71-72.

[15] *See* Chapter IX.

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CHAPTER IX

COMMERCIAL TREATIES AND AGREEMENTS

Although it is quite possible for exporters and importers to engage in international trade without Governmental agreements concerning their trading rights, the nature of foreign trade is such that, in the absence of commercial treaties or understandings, its volume is usually restricted. Foreign trade moves between different nations, the Governments of which customarily define certain aspects of the trading rights of their nationals in formal commercial treaties or agreements. Those to which the United States is a party may be more or less logically subdivided into three classes or types: (1) general commerce and navigation treaties, (2) special treaties, and (3) international conventions, agreements, or unions subscribed to by groups of nations.

GENERAL COMMERCE AND NAVIGATION TREATIES

Whether in the future the general bilateral commerce and navigation treaties to which the United States is party will ever be displaced in importance by multilateral trade conventions remains to be seen. At present, as in the past, the former undoubtedly hold a position of major importance.

The United States Government began negotiating general commercial treaties almost from the beginning of its national existence without, however, adhering to a continuous policy. The general aim for many years was to obtain equality of treatment in international trade, but the method pursued was one of individual negotiation and bargaining which "led to special arrangements and stood in the way of the adoption of a general policy."[1] It was not until the last half-dozen years that a more consistent policy—one more in line with a real desire for equality of treatment in matters of international trade—was adopted.

The bargaining policy of the United States soon gave rise to a distinctly American interpretation of the "most-favored-nation" clause or clauses that have usually been essential parts of every general commercial treaty. In these clauses it is variously provided that each contracting party shall grant to the other the most favorable commercial treatment accorded by it to any other nation. Two interpretations, however, became prevalent, the one "unconditional" and the other "conditional." The former was usually, although not in every instance, urged by European governments. This interpretation, when strictly applied, virtually barred special reciprocity agreements or other special agreements with particular nations. The American conditional interpretation, on the contrary, left the door open to special bargaining by inserting a proviso to the effect that when a special concession is granted to any other nation the countries entitled to most-favored-nation treatment "shall enjoy the same freely if the concession is freely made, or on allowing the same compensation if the concession was conditional." The phraseology of the conditional proviso was not uniform in all of the general commercial treaties of the United States, and a few unconditional treaties were negotiated by the United States Government, but the conditional interpretation was quite generally insisted upon until 1922. This conditional most-favored-nation clause made possible the negotiation of trade reciprocity treaties with particular countries without automatically or freely extending the special concessions to all other countries entitled to most-favored-nation treatment.

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[1] *Reciprocity and Commercial Treaties*, United States Tariff Commission, 1919, p. 9.

Although trade reciprocity may be regarded as a means of attaining equality of treatment, it did not in practice result in general equality because reciprocity treaties were negotiated with particular countries and their terms were such that other countries did not generally come forward with offers of similar concessions. Nor was general equality the intent of special trade reciprocity treaties; they were primarily an evidence of special bargaining. The reciprocity agreements effected under the tariff acts of 1890 and 1897 were typical of the former policy of the United States. So, too, were the Canadian reciprocity treaty of 1854, the Hawaiian reciprocity treaty of 1875 and the Cuban reciprocity treaty of 1902, the latter treaty remaining in effect at the present time.

It has long been understood that a nation has at its command two methods for obtaining just treatment. Of these, the making of concessions through reciprocity arrangements is one. The other method is to impose penalties in the form of additional import duties on wares received from countries that practice discrimination, the purpose of the penalty or threat of a penalty being to enforce justice and equality. This principle underlies the multiple tariff system of certain of the European countries, and was embodied in the United States tariff act of 1909. The maximum schedule of this act in effect served as a penalty that could be imposed by the President. A number of discriminations were terminated but full equality of treatment was not obtained from every country. The tariff act of 1913 returned to the single tariff schedule basis and again provided for trade reciprocity through the medium of reciprocity treaties.

Sentiment, however, was gradually undergoing a change and in 1919 the Tariff Commission, after conducting an extensive investigation, recommended the adoption of a flexible tariff system under which the President would be empowered, within statutory limits, to enforce equality of treatment by means of additional duties.

> It can not be too much emphasized that any policy adopted by the United States should have for its object, on the one hand, the prevention of discrimination and the securing of equality of treatment for American commerce and for American citizens, and on the other hand, the frank offer of the same equality of treatment to all countries that reciprocate in the same spirit and to the same effect. The United States should ask no favors and should grant no special favors. It should exercise its powers and should impose its penalties, not for the purpose of securing discrimination in its favor, but to prevent discrimination to its disadvantage.[2]

These views were embodied in the tariff act of 1922, the flexible provisions of section 316 of which were related very directly to the more recently adopted commercial treaties; and they were reënacted in section 338 of the Tariff Act of 1930. The United States Government has come out in favor of the unconditional most-favored-nation clause. The much-discussed general commercial treaty of December 8, 1923, with Germany, for example, is based upon the unconditional most-favored-nation principle, subject to certain restricted trading areas reserved by each nation. Exception from the unconditional interpretation is made by the United States of special concessions accorded to the products of Cuba and to commerce with its dependencies and with the Panama Canal Zone; and by Germany with respect to special treatment accorded to border traffic within a zone of ten miles along the frontiers of Germany. Exceptions of this kind are not necessarily regarded as inconsistent with the most-favored-nation principle. Where special political ties and responsibilities lead to special commercial relations, or where nations have a long frontier line in common, a basis for exceptional treatment had in the past been regarded as admissible.

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[2] *Ibid.*, p. 15.

It is interesting to note that while the United States Government was in this manner shifting its position with reference to the unconditional most-favored-nation principle so long urged by European nations, there has, since the World War, been a tendency on the part of European countries to negotiate treaties embodying reciprocal concessions.

General commerce and navigation treaties usually refer specifically to ocean shipping as well as to customs duties on imports. Prior to 1815 the policy of the United States was to discriminate in favor of American shipping by providing for lower import duties on commodities imported in American vessels than on identical cargoes delivered in foreign vessels, and also to impose discriminating tonnage dues. This policy, known as ''shipping protection,'' played its part in the early development of the United States merchant marine. It was discarded partly in the tariff act of 1815, and wholly in the act of 1828. Following the enactment of these statutes the general commercial treaties of the United States were gradually revised so as to contain clauses providing for ''shipping reciprocity.''

Shipping reciprocity differed from the trade reciprocity provided for in certain treaties and agreements in that it was applied generally throughout the commercial world instead of being limited to particular countries. It resulted in general equality in the treatment of shipping instead of in special treatment for the vessels of selected nationality.

The principle of shipping reciprocity is quite in accord with the principle of equality of treatment. It remains the accepted shipping policy, although several attempts were made during more recent years to revert to shipping protection. The tariff act of 1913 provided for a discount of 5 per cent on import duties in case of cargoes imported in American vessels, but a proviso to the effect that existing commercial treaties were not to be impaired rendered it inoperative and the Supreme Court held the provision to be invalid. The Merchant Marine Act of 1920, section 34, again raised the issue of shipping protection. It directs the President to give notice to all governments parties to treaties containing shipping reciprocity clauses, that such clauses must be terminated. Thus far, however, such notice has not been served and shipping protection has not gone back into effect.

SPECIAL COMMERCIAL TREATIES AND AGREEMENTS

The general commerce and navigation treaties referred to above commonly cover the more general matters of international importance concerning trade and shipping, such as customs laws and regulations, consular representation, protection of industrial property, etc., and they may in addition include a wide range of special or related subjects. Within modern commercial treaties "there appear provisions as to admission of diplomatic and consular officials, and their rights and activities; immigration and emigration; police protection and civil rights; conditions of travel, residence, and trade; exemptions from extraordinary levies, forced loans, and military service; navigation, quarantine, and harbor regulations and dues; conditions for importation, exportation, transit, transfer, warehousing, tariffs and customs laws; protection to patents, copyrights, and trademarks."[3] The scope of general commercial treaties has not been standardized.

When subjects of this character are not definitely included in the more general treaties they frequently become the basis upon which special treaties or agreements are negotiated:

1. The practice of negotiating special consular conventions began as early as 1788, when such a convention was entered into with France. Many have been signed since then, particularly during the period extending from 1850 to 1902.

2. Special treaties and agreements concerning the navigation of rivers, bays, and lakes have similarly been negotiated with a number of foreign countries. Those with Great Britain and

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[3] *Ibid.*, p. 17.

Canada concerning the navigation of the Great Lakes and connecting channels have been particularly important.

3. A third group of special treaties concerns the construction and operation of interoceanic canals between the Atlantic and Pacific oceans. Great Britain became a recognized factor in 1850 when the Clayton-Bulwer Treaty was negotiated, and when this treaty was superseded by the Hay-Pauncefote Treaty in 1901, the international character of interoceanic canals and the guarantee of their use on terms of equality was reiterated. This general principle was also embodied in the convention of 1903 in which the Republic of Panama granted the Panama Canal Zone to the United States for canal purposes; and it is variously stated in earlier treaties with Colombia, Mexico, Honduras, and Nicaragua.

4. Numerous agreements, conventions, and proclamations concerning the mutual protection of patents and trade-marks have been negotiated.

5. The trade reciprocity treaties and agreements to which the United States has been party constitute a fifth group of special commercial treaties and agreements. Running counter to the principle of equal treatment now embodied in the tariff act and in our general commercial treaties, the importance of treaties of this kind in the future is doubtful. The reciprocity treaty with Cuba remains in effect, for it is especially excepted in the tariff act of 1930.

6. Miscellaneous special commercial treaties, agreements, and conventions include those relating to international parcels post services, the position of trade associations and corporations, the rights of neutrals at sea, the reciprocal measurement of vessels, and the shipment of intoxicating liquor.

Trading rights in some foreign countries, particularly those not fully open to trade with the outside world, or countries in which trade customs differ widely from those prevalent in Europe or the Americas, are defined in treaties which, although general in scope, are special in that they are in many respects different from the general commerce and navigation treaties previously referred to. Trade with China has been influenced by the terms of treaties, conventions, and agreements negotiated individually by the United States with China; by treaty rights originally acquired by other nations and later made available to the United States as a result of the most-favored-nation clauses of our Chinese treaties; and by international conventions to which several countries are party.

Beginning in 1844 with a ''treaty of peace, amity and commerce,'' other important commercial treaties between the United States and China followed in 1858, 1868, 1901, and 1903. These treaties variously provided for the opening of Chinese treaty ports, the limitation or regulation of import and export duties, tonnage duties, fees, charges, and taxes; consular representation and extraterritorial rights; residence of American citizens and the location of American houses and places of business; the protection of trade-marks, copyrights and patents; the opening of navigable streams to commerce with interior points in China; and the right to establish bonded warehouses and engage in mining operations. In 1929 a special treaty providing for Chinese tariff autonomy and most-favored-nation treatment with respect to customs duties, internal charges, and taxes on imports and exports was ratified. Some of these and other matters are also defined in joint international treaties or agreements.

Early commercial treaties of the United States with Japan were special in that they differed widely from the customary general commerce and navigation treaties established between western nations. Special treaties were concluded in 1854, 1857, 1858, 1864, and 1866. Another treaty was negotiated in 1878, but being conditioned upon the acceptance of similar Japanese treaties by other treaty powers, it did not become effective. In 1894, however, a new general ''treaty of commerce and navigation,'' similar to the general commercial treaties which the United States had negotiated with western powers, was signed. This treaty, effective in 1899, removed Japan from the list of countries to which special treatment is accorded. It was supplemented in 1897 by a special convention concerning patents, trade-marks, and designs, and in 1905 by a special copyright convention; and, in 1911, was superseded by a revised general ''treaty of commerce and navigation.''

INTERNATIONAL CONVENTIONS AND AGREEMENTS

Bilateral commercial treaties negotiated directly between the United States and particular foreign countries have from time to time been supplemented or displaced by joint international conventions or agreements. The Japanese treaty of 1866, referred to above, was in fact a joint treaty between Japan, the United States, Great Britain, France, and Holland. In 1901, following the Boxer disturbances in China, the United States, China, Japan, and a group of European nations similarly signed an international protocol providing for the payment of indemnities and the punishment of offenders, and also covering matters strictly commercial in character, such as an agreement on the part of China to certain treaty amendments, to readjust import duties and to coöperate in improving certain Chinese rivers. Later, in 1905, a new international agreement concerning the improvement of the Wang-Pu River was effected.

As the "open-door" policy, or principle of equality of opportunity for all nations in China, long supported by the United States, directly involves the activities of Japan and European powers, the effect of bilateral treaties between China and the United States was necessarily limited. As early as 1899 Secretary of State John Hay endeavored to bring about a joint understanding by means of diplomatic notes addressed to Japan, Great Britain, Italy, France, Germany, and Russia. This phase of Chinese commercial diplomacy was covered more definitely at the Washington Conference of 1921-22. The so-called "Nine-Power Treaty" of February 6, 1922, signed by the United States, China, Japan, Great Britain, France, Italy, Holland, Portugal, and Belgium, reaffirms the open-door policy and also affirms the general principle of the territorial and administrative integrity of China.

Other joint treaties and resolutions resulting from the Washington Conference variously concerned the establishment of a commission with a view to the eventual future relinquishment of extra-territoriality; the revision of Chinese import duties and transit charges; the withdrawal of foreign post offices on condition that satisfactory arrangements were made by China; the establishment and operation of radio stations in China; the development of Chinese railways, and the filing and interchange of present and future treaties and agreements concerning China. China made a declaration to the effect that further Chinese territory would not be alienated or leased to foreign powers. Japan and China concluded a bilateral treaty concerning the return of Shantung to China and the adjustment of related problems. Great Britain declared an intention, under satisfactory conditions, to return Weihaiwei, Shantung, to China. Although the special rights attained by Japan in the Sino-Japanese treaty and notes of 1915 were not covered by joint treaties or resolutions at the Washington conference, they were discussed and Japan declared her readiness to withdraw from some of them. In the ''Four-Power Treaty'' signed by the United States, Japan, Great Britain, and France, these powers agreed mutually to respect each other's rights in their respective insular possessions and dominions in the Pacific and to refer disputes not adjusted by diplomacy to a joint board.

There have for many years been joint international conventions concerning a wide range of commercial activities. The Universal Postal Union, for example, was established by joint conventions in 1874. An international bureau of weights and measures was established in 1875. A general act for the repression of the slave trade was agreed to in 1890. A joint ''convention for the international protection of industrial property'' was concluded in 1883 and supplemented in 1890 and 1900. This earlier joint agreement was in 1911 superseded by a revised agreement covering both patents and trade-marks and creating an international bureau to administer the agreement. The United States also became party to several inter-American industrial property agreements. In 1910 the United States became party to an Inter-American Convention for the Protection of Industrial Property; a special Inter-American Convention for the Protection of Trade-marks; and an Inter-American Convention for the Protection of Literary and Artistic Copyrights. A revised Inter-American Convention for the Protection of Trade-marks was negotiated in 1923 and ratified by the United States in 1925. The problem of protecting patents and trade-marks, however, has not been finally solved. International discussions were held at the Hague Conference in 1925, and consideration has since then been given to it by the International Chamber of Commerce.

The United States is also a party to international conventions concerning submarine cable, wireless-telegraph, salvage at sea, sanitation and public health, unification of formulas for patent drugs, abolition of export and import prohibitions and restrictions,[4] publication of customs tariffs, and other matters concerning which it was believed desirable to act jointly with groups of nations rather than to depend upon bilateral treaties.

Recent discussions concerning treatment of foreign companies and nationals, international double taxation, industrial property rights, etc., at widely attended international conferences, and by organizations such as the Economic Committee of the League of Nations and the International Chamber of Commerce may forecast the possible increased dependence in the future upon multilateral commercial agreements or common action through statute or otherwise by groups of nations.

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[4] *See* Chapter XXXVIII.

CHAPTER X

GOVERNMENT TRADE-PROMOTING ORGANIZATIONS ABROAD

Just as the United States has adopted definite means of promoting its foreign commerce, many other nations have in varying degrees done likewise. The entire program of a nation as it relates to its attitude toward other countries in commercial matters comprises its "commercial policy." This is an extremely broad subject, involving such questions as tariff, conventions, subventions, subsidies, and legislation. It is not the purpose of this chapter to touch such ramified topics, but to discuss the official foreign trade-promoting organizations in foreign countries comparable with those of our own Government, which have been previously described.

As an established principle, citizens of any nation are free to engage in international trade as they are permitted to do so by foreign countries, and the function of their own national government is to protect and assist them in their enterprises. In the case of the Soviet Union, however, a conspicuous exception is found. Here all foreign trade is a monopoly of the government, it being administered by the People's Commissariat for Foreign and Internal Trade. Licenses are required for the export and import of merchandise and the total movement of foreign commerce is governed by the Gosplan, the state planning commission. The principal unit through which the government carries on its foreign trade is the Gostorg which maintains branches throughout the Union as well as in foreign countries. In addition to this official government trading organ, foreign commerce is conducted by coöperative societies and other associations and by means of concessions granted to foreign concerns. This instance of complete government monopoly over trade is, however, unique in this day. The other nations of the world permit private citizens to engage freely in business and they adopt, in many instances, a plan of coöperation and assistance.

A survey of the direct methods of foreign trade promotion now practiced by the important commercial nations reveals an interesting variation in the plans adopted.

It will be recalled that in the United States the government bureau specifically charged with the work of foreign trade promotion is in the Department of Commerce. Moreover, the consular service, which in all countries is a means of foreign contact second to none in significance, is found in the Department of State. Some degree of coördination between these branches has been worked out, but essentially they are independent.

The system of trade promotion found in France, Japan, Canada, Sweden, etc., likewise imposes upon a corresponding Department of Commerce the prime responsibility for conducting this work. Countries which follow the plan of supervision adopted in Belgium, on the other hand, place this responsibility in the Department of State or, as it is called abroad, the Foreign Office.

There is still a third system whereby the departmental allocation of this function is made. In Great Britain and Germany neutral bureaus, jointly supervised by the Foreign Office and the commercial branch of the government, are maintained.

It may be viewed as significant that in many countries which have adopted or expanded direct measures of trade promotion in post-War years, the plan generally followed has been to locate some newly organized promotive bureau in the commercial department. The reasoning in these instances follows the same line as that pursued in the United States. Great Britain, on the contrary, with a century of prominence in world trade has decided upon the system of dual control, and Germany with many years of experience has recently adopted the same plan. Of the important world trading nations Belgium is alone in the plan of Foreign Office control over foreign trade promotion.

A second observation of importance refers to the different methods of executing the promotive program. In the United States this is accomplished through the Bureau of Foreign and Domestic Commerce, a strictly governmental office. The same plan is followed in most of the other countries, including Great Britain, Japan, Belgium, Canada, France, and Germany. In a few instances, however, the government has preferred to assign this active work to a semi-public body. In Italy, for example, the Instituto Nazionale per l'Esportazione (National Institute for Export) is a semi-official bureau, receiving government support and guidance, but it is managed by a council composed of a president and 45 members, 12 of whom are government officials and 33 private citizens named by the government and various associations. In Sweden, foreign trade information is disseminated through the General Export Association, a government-supported institution. This Association coöperates closely with the Commercial and Administrative Bureau of the Royal Board of Trade and also with the Foreign Office.

The methods of maintaining contact with foreign countries include the appointment of consular and diplomatic officers, commercial attachés, special trade representatives, etc., and close cooperation with chambers of commerce abroad. In some instances, as in Sweden, the latter are granted a substantial degree of financial support by the home government. The French system provides for commercial offices abroad as well as close contact with French chambers of commerce overseas.

The Japanese plan involves some rather distinctive features. The trade commissioners are entitled ''commercial correspondents'' and they are assigned to cover an unusually broad territory. Temporary rather than more or less permanent trade investigators have at various times been dispatched in groups of commercial travelers. These were small bands of business men who were selected by the Department of Commerce and Industry from the leading guilds and associations of manufacturers. They visited certain foreign trading areas and advanced Japanese commercial interests abroad, but in spite of the effectiveness of this plan, it was discontinued in 1927.

The Japanese believe in the permanent display of their national merchandise as a means of building trade contacts with foreign countries. This is accomplished through the Japanese permanent commercial museums which exhibit samples of Japanese produce. Some of the museums sell on commission the merchandise which they show. At the present time Japanese sample exhibits or commercial museums are to be found in Harbin, Singapore, Soerabaja, San Francisco, Calcutta, Cairo, and Constantinople.

The same belief in the policy of merchandise display led the Japanese government in 1928 and 1929 to subsidize the Chamber of Commerce and Industry for the purpose of enabling it to arrange Japanese participation in international sample fairs held in foreign countries.

Another unusual plan to aid foreign trade is found in the Japanese method of export inspection. The country being dominated by small units of production, it is natural that the quality of merchandise should lack uniformity and might even be inferior. The standard of Japanese exports which found their way abroad during the War did not establish an enviable reputation for quality. In order to insure the quality of some of the leading lines of Japanese production, the government has found it necessary to require rigid inspection before permitting the exportation of these products.

For purposes of more detailed comparison between the direct methods of trade promotion practiced in different countries, a description of the programs of Great Britain, France, and Germany will be undertaken.

GREAT BRITAIN

All matters relating to British commercial policy rest in the hands of the Board of Trade "which is the official mouthpiece of British trade interests in all matters of commercial relations, and the accepted adviser of (the Foreign Office and Dominion and Colonial Departments) as to the commercial bearings of any proposed negotiation or representation."[1]

Since Great Britain was the world's greatest trading nation and possessed a century of vital interest in foreign commerce, it might be inferred that an effective, if not elaborate, organization for trade promotion had been early adopted. On the contrary, neither condition was present before the War, since merely a handful of commercial attachés existed and these were seriously handicapped by reason of excessively broad territorial assignments; and the consular service was taxed to the limit by the burden of other work which prevented effective attention to trade promotion.

The Department of Overseas Trade.—Realizing the urgent necessity for acquiring and holding overseas markets following the War, as well as the competition which would be encountered, plans were made for creating a new governmental organ of trade promotion. "In consequence of an urgent demand from business men for a Department which should in a special sense be *their* Department"[2] there was organized in 1917 the Department of Overseas Trade.

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[1] *Final Report of the Committee on Industry and Trade*, Balfour Committee, 1929, p. 28.

Since the Foreign Office and the Board of Trade each performs a distinctive foreign service and one cannot be absorbed by the other, a joint organization was created. This was accomplished by combining the Commercial Intelligence Branch of each of these departments. The Consular Service, always an important arm of trade promotion in all governments, was added to the Department in October, 1919.

The Department of Overseas Trade, a joint department in the Foreign Office and the Board of Trade, is under the supervision of a Minister who is Parliamentary Secretary to the latter and Parliamentary Under Secretary of State for the former. Next to the minister is a Comptroller General. The principal divisions of the work at headquarters are indicated by the following titles: (1) Empire, Trades and Economic Division; (2) Foreign Division; (3) Exhibitions and Fairs Division; (4) General Division; and (5) the Export Credits Guarantee Department. The first division is further subdivided into the three subjects indicated by the title. The Empire Division is split into seven branches among which are divided territorially all portions of the British Empire.

The Trades Division, under an assistant director, provides the commodity specialization for the department. The principal sections, each with further subdivision to provide this necessary specialization, are Engineering, Textile, Chemical and Electrical, and Miscellaneous Trades. Each of these sections "handles the correspondence with firms in this country in its particular trade, and is responsible for the distribution of commercial information relating to that trade."[3]

Combined in the Central Section of this division are the Special Register, Foreign Samples Section, Foreign Catalogues Library, and Trade Index. The Special Register contains the names of British exporters who have registered therein as being interested in receiving confidential information relating to their

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[2] *Department of Overseas Trade,* H.M. Stationery Office, 1923, p. 4.
[3] *Ibid.,* p. 14.

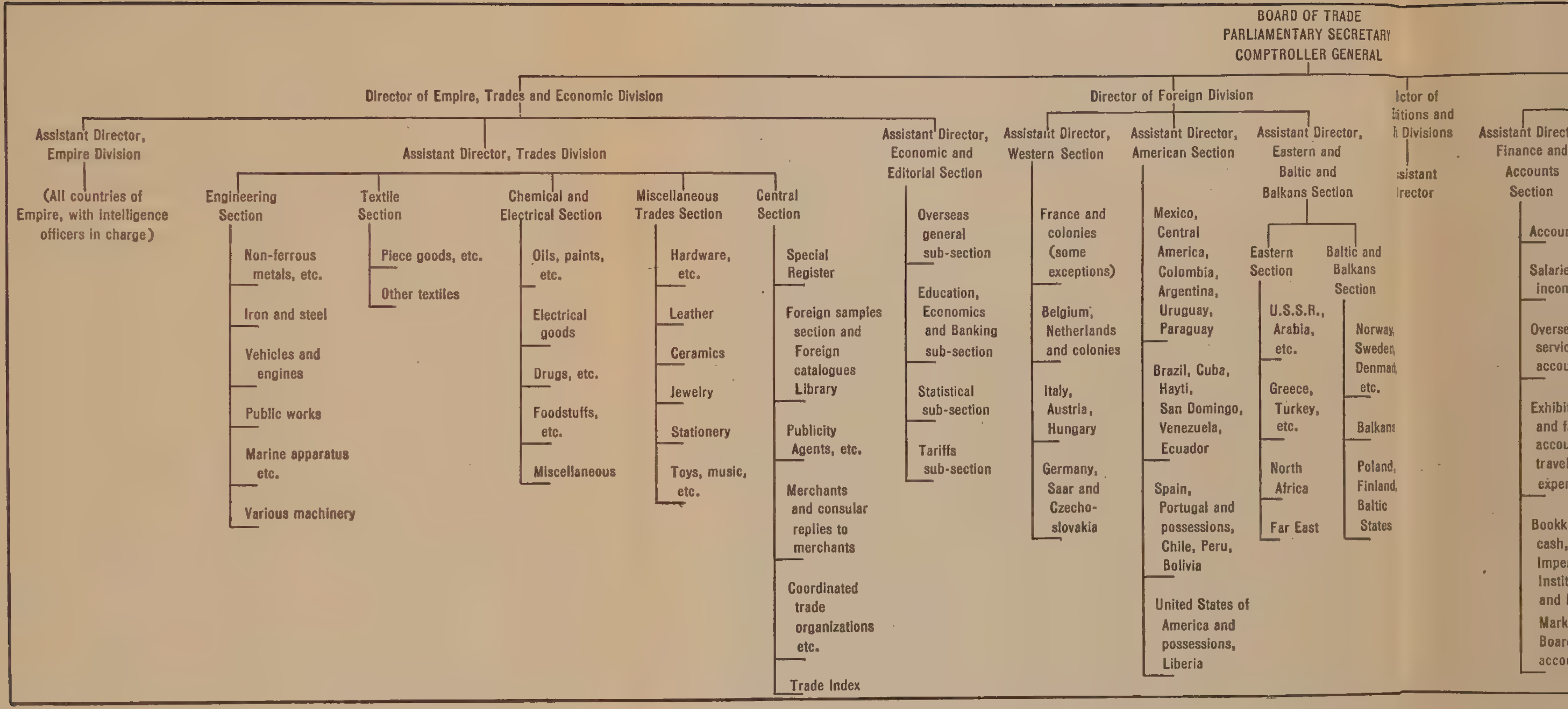
BOARD OF TRADE
PARLIAMENTARY SECRETARY
COMPTROLLER GENERAL
Director of Empire, Trades and Economic Division
Director of Foreign Division
ctor of
itions and
Divisions
sistant
irector
Assistant Director, Empire Division
(All countries of Empire, with intelligence officers in charge)
Assistant Director, Trades Division
Engineering Section
Non-ferrous metals, etc.
Iron and steel
Vehicles and engines
Public works
Marine apparatus etc.
Various machinery
Textile Section
Piece goods, etc.
Other textiles
Chemical and Electrical Section
Oils, paints, etc.
Electrical goods
Drugs, etc.
Foodstuffs, etc.
Miscellaneous
Miscellaneous Trades Section
Hardware, etc.
Leather
Ceramics
Jewelry
Stationery
Toys, music, etc.
Central Section
Special Register
Foreign samples section and Foreign catalogues Library
Publicity Agents, etc.
Merchants and consular replies to merchants
Coordinated trade organizations etc.
Trade Index
Assistant Director, Economic and Editorial Section
Overseas general sub-section
Education, Economics and Banking sub-section
Statistical sub-section
Tariffs sub-section
Assistant Director, Western Section
France and colonies (some exceptions)
Belgium, Netherlands and colonies
Italy, Austria, Hungary
Germany, Saar and Czecho-slovakia
Assistant Director, American Section
Mexico, Central America, Colombia, Argentina, Uruguay, Paraguay
Brazil, Cuba, Hayti, San Domingo, Venezuela, Ecuador
Spain, Portugal and possessions, Chile, Peru, Bolivia
United States of America and possessions, Liberia
Assistant Director, Eastern and Baltic and Balkans Section
Eastern Section
U.S.S.R., Arabia, etc.
Greece, Turkey, etc.
North Africa
Far East
Baltic and Balkans Section
Norway, Sweden, Denmar etc.
Balkans
Poland, Finland, Baltic States
Assistant Direct
Finance and
Accounts
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CHART III. ORGANIZATION OF THE BRITISH DEPAENT OF OVERSE

particular line of business. Data of a more general nature appear in the weekly *Board of Trade Journal.* An annual fee of £1 1*s.* 0*d.* is charged for enrollment in this Register.

The Foreign Samples Section gathers and exhibits samples of foreign made goods together with selling prices and all pertinent matter available. The Foreign Catalogues Library contains over 16,000 foreign trade catalogues which are intended especially to illustrate various methods of foreign advertising. Together these two branches enable the British manufacturer to know specifically what competitive goods he may produce.

The Trade Index is the official trade directory of United Kingdom manufacturers, listing all those who register according to the commodities which they handle and the countries in which they are interested commercially. It is not published but is for the confidential use of the Department and its representatives overseas.

The second main Division, *i.e.,* Foreign, provides the territorial emphasis to the promotive work in foreign countries. It is subdivided into the Western, American, Eastern and Baltic, and Balkans sections, each being further split into a more detailed country arrangement. These sections deal primarily with correspondence emanating from the territory which they represent.

The Exhibitions and Fairs Division, although interested in this subject from all angles, is especially charged with the organization and management of the British Industries Fairs. These were begun during the War (in 1915) when supplies of certain foreign goods were cut off. Of constantly growing attraction and significance, these exhibitions of British-made products are held annually and concurrently in London, Birmingham, and Glasgow. With the exception of a yearly appropriation of £25,000 which is used for advertising and propaganda, the fairs are practically self-supporting. The coöperation of local authorities and trade bodies is received in the conduct of the fairs held outside of London.

The Export Credits Guarantee Department, headed by a Manager and directly under the supervision of the Comptroller-General administers the British Government facilities for insuring and financing credits for export.[4]

Unlike the district office organization of the United States

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[4] *See* Chapter XXIX.

Bureau of Foreign and Domestic Commerce, the Department of Overseas Trade has but one branch and that is, like the head office, located in London. For the dissemination of the reports and information which are prepared, the principal channel is the local chambers of commerce throughout the country. These have been federated since 1860 in the Association of British Chambers of Commerce, the membership also including British chambers in northern Ireland and in foreign countries. There are over 45,000 members of this Association and, according to the report of the Balfour committee in 1929, it cannot be replaced for the dissemination of commercial intelligence amongst manufacturers and traders.

A further organization which coöperates closely with the government in its trade promotion efforts is the Federation of British Industries. This association was formed in 1916 "to form a central organization which should voice the views and promote the interests of the manufacturers and producers of the country as distinct from merchants."[5] Its membership comprises two hundred associations and over two thousand individual firms and it claims to be in touch with the vast majority of British industry. District offices are maintained in the leading industrial centers of the country and paid representatives are stationed abroad in its interests. To the Department of Overseas Trade the Federation of British Industries provides the views of manufacturers, it disseminates commercial information to its members and works abroad in contact with the representatives of the Department. It collaborates generally with the latter, especially in the preparation of specific market reports. The Federation, moreover, conducts a credit information clearing house for overseas customers.

Overseas Organization.—The Department of Overseas Trade is represented in the Empire by Trade Commissioners and Imperial Trade Correspondents; and in foreign countries by officers of the Commercial Diplomatic Service and of the Consular Service.

There are fifteen Trade Commissioners' offices—four in Canada, two in Australia, one in New Zealand, two in South Africa, one in Irish Free State, two in India, and one each in Singapore, Nairobi (East Africa), and Trinidad. They are assisted in their work at a few of the most important centers by Imperial Trade Correspondents. The latter also represent the Department of Overseas Trade in those parts of the Empire where Trade Commissioners are not to be found. The correspondents in some instances are private British citizens or trading organizations, but to a large extent they are officials in the colonial governments, often in the customs branch.

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[5] Balfour Committee, *Final Report*, p. 174.

In foreign countries, the officers of the Department comprise the Commercial Diplomatic Service. They are stationed in a score or more important foreign commercial centers, the number of individual appointments being thirty-four.

> The members of the Commercial Diplomatic Service are styled Commercial Counsellors in the highest grade [of which there are ten], and Commercial Secretaries in the three lower grades. They are members of the staff of the British Embassy or Legation in which they serve, and rank with the Diplomatic officers of corresponding grades, with whom they coöperate as closely as possible, in any matter which has a political as well as a commercial side to it.[6]

The Consular Service, as stated above, is now under the control of the Department of Overseas Trade. "The administration of the Consular Service is in a department presided over by a Counselor of the Foreign Office, but which is responsible to the D.O.T. . . ."[7] From this set-up it might be supposed that discontent would arise, there being no member of the Consular Service in charge, but Mr. Norton finds no competition existing between the Consular and the Diplomatic (Foreign Office) services.

Consular officers in foreign countries report directly to the Department of Overseas Trade. Moreover, in so far as commercial activities are concerned, the consuls are under the general supervision of the Commercial Diplomatic officer in the same section. "This arrangement ensures that special prominence is given to the commercial side of Consular work and, by the cooperation of the two Services, a complete network of Government Commercial representatives is thrown over foreign countries." In foreign places where commercial diplomatic officers are not stationed, the entire trade interests are left in the hands of the senior consular officer.

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[6] *Department of Overseas Trade*, pp. 11-12.

[7] Henry K. Norton, "Foreign Office Organization," *Annals of the American Academy of Political and Social Science*, 1929, p. 47.

Although not possessing official status, the large number of British chambers of commerce located in foreign cities provide an important additional means of contact and source of information for British traders.

The Board of Trade Journal is the official weekly publication of the Board of Trade, and a section in it is regularly devoted to the Department of Overseas Trade as well as to other matters of interest to foreign traders and shippers. Chief among the regular publications of the D.O.T. are its annual commercial, financial, and economic reports on foreign countries and various parts of the Empire. These comprehensive studies are prepared by the officers of the overseas service on the countries in which they are stationed.

A distinctive phase of governmental trade promotion in the British scheme is found in the Empire Marketing Board which was formed at the suggestion of the Imperial Economic Committee of 1925. It is a practical working-out of the ''Buy-British-Goods'' slogan which has been given much prominence in recent years. Initially the Board was to encourage by some means the consumption of home products in the United Kingdom and to encourage the procurement of outside materials from Empire countries. The Board functions by conducting research and investigation into production and marketing and by propaganda activities. Advertising of the merits of inter-Empire merchandising is conducted on a wide scale, in one year over $500,000 having been expended on outdoor advertising as well as large sums for newspaper space. Various missions have been dispatched, conferences held, scientific and marketing studies subsidized, exhibits installed, and other promotive activities engaged in.

Some dominions, colonies, etc., which are members of the British Commonwealth of Nations have adopted a trade promotion or commercial intelligence service of their own. As a growing nation in world trade the features of the Canadian plan may be briefly sketched. The Canadian Department of Trade and Commerce maintains a Commercial Intelligence Service to assist Canadian exporters. This Service is organized in Ottawa into several divisions, *viz.:*[8] Trade inquiries, in which reports and information on foreign markets are maintained; foreign tariffs; directories, two of which are established—(1) The *Directory of Canadian Exporters* containing the names of exporters and their agents abroad, the commodities they handle, ratings, etc., and (2) *A Foreign Importers' Directory;* and an Editorial Division, which publishes the *Commercial Intelligence Journal,* a weekly trade organ.

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[8] *The Canada Year Book, 1929,* Dominion Bureau of Statistics, pp. 470-71.

The Department functions overseas through trade commissioners who are stationed in important trade centers in the Empire as well as in foreign countries. Where not so represented Canadian exporters may procure information from British commercial, diplomatic and consular officers.

FRANCE

The official French foreign trade promotion service is found in the Ministry of Commerce and Industry. This "commercial expansion service" was inaugurated in 1919.

Under the Minister of Commerce and Industry there is a Director of Personnel, Commercial Expansion and Credit. This official, in turn, has general supervision over the broad activities connoted by his title. The organization maintained in France includes (1) the National Foreign Trade Office (*Office National du Commerce Exterieur*); (2) the National Foreign Trade Bank; and (3) the Credit Insurance Service. The organization maintained in foreign countries consists of (1) commercial attachés and commercial agents; (2) French commercial offices abroad; and (3) French chambers of commerce abroad.

The National Foreign Trade Office.—This department corresponds to the Bureau of Foreign and Domestic Commerce in the United States. It acts as the clearing house and disseminator of the information gathered abroad by the overseas services. Reports are distributed to French commercial and industrial interests through syndicates as well as through chambers of commerce and other commercial bodies which act as regional agencies throughout France.

At headquarters the National Foreign Trade Office is divided into two main territorial departments and a number of central services. One territorial division is organized on a foreign country basis, sections being established therein for (1) English-speaking countries, (2) Spanish- and Portuguese-speaking countries; (3) Germany and central Europe, Belgium, Holland, and Scandinavia; (4) Italy, Balkans, Greece, Switzerland, and Roumania; (5) Orient; (6) Russia and adjoining countries. These geographical sections gather and provide information relating to the foreign trade and commerce of the respective countries in which they specialize.

The other territorial division devotes attention to the foreign trade requirements of French commerce and industry. It is organized primarily on a commodity basis, sections being created for the leading branches of French industry. These sections collect data relating to the specific industries which they represent and transmit this information to the commercial attachés abroad. In this way the foreign representatives are kept fully informed as to the needs of French industry and commerce for export markets. The division, moreover, maintains the List of Exporters, containing the names of French merchants and producers who have registered. Various technical services are also provided to assist French exporters.

Within the National Foreign Trade Office there is also a tariff and transportation section which provides data relating to freight rates, customs duties, documentary requirements, conventions, postal charges, etc. An international commercial legislation section advises on legal matters involved in foreign trading. A credit reporting service is conducted from which data on the standing of foreign business houses may be obtained. Beginning March 1, 1929, a charge of 20 francs is assessed for reports on European and French colonial firms and 30 francs for all other.

The Office also maintains a library of international economic and technical information which is the most complete library of its kind in Paris.

The publications of the National Foreign Trade Office consist of monographs which are issued from time to time and the *Moniteur Officiel du Commerce et de l'Industrie.* This organ is published weekly and it also appears in an agricultural edition (semimonthly).

An essential phase of the commercial expansion services is found in the National Bank of Foreign Commerce. The function of this governmental agency is to combine long-term credits granted by French exporters and to transform them for acceptance into liquid or short-term credits. The exporter is thus able to receive early payment for his sales and contracts involving long extensions.

The Credit Insurance Service administers the law of July 10, 1928, by which the Minister of Commerce is authorized to guarantee to a maximum of 60 per cent the export operations of French houses with foreign administrations and public services. A special commission has been created to examine and pass upon requests for credit insurance by French producers.

Auxiliary foreign trade promotion services of the French government consist of the counselors and the committees on expositions and on foreign fairs. France has organized into the National Committee on Foreign Trade Counselors the men best informed on this subject. The committee consists of persons from commercial and industrial life who are qualified to act in this foreign trade advisory capacity. It is organized into regional committees which are located throughout France as well as in five European cities, Buenos Aires, and Rio de Janeiro. The Committee on Expositions organizes sections for participation in French expositions, while the Permanent Committee on Foreign Fairs arranges and facilitates the participation of French interests in foreign fairs.

Overseas Service.—The commercial expansion services located abroad consist first, as listed above, of commercial attachés and commercial agents all of whom are attached to diplomatic missions. The French commercial offices, headed by a director, are situated in a number of foreign cities where French commercial enterprises and sometimes political influence are most prominent. Six of them are found in the Near East and others are located in Madrid, Barcelona, Genoa, Luxemburg, Amsterdam, and Zurich.

These offices, although managed by a director, are under the supervision of the commercial attaché stationed in the respective country. The functions of the offices are primarily to place French producers in direct contact with foreign buyers and especially to take up questions of detail relating to their particular sphere.

The French chambers of commerce abroad are identical with like organizations of other expatriated nationals, but in the case of France they comprise an important part of the official commercial expansion services. In the United States plan, it will be remembered, these chambers of commerce abroad are distinctly private and head up through the Chamber of Commerce of the United States in Washington.

GERMANY

The official foreign trade promotion service of Germany is still in the process of development. Hampered especially by the lack of funds, it has not been possible to establish a service comparable with that in other large foreign trading nations.

Before the War, government trade promotion was handled partly in the Ministry of the Interior and partly in the Office of Foreign Affairs. German consuls, assisted by specially trained trade experts, collected commercial information in foreign countries. In 1914, private institutions supported by the leading banking, industrial, and shipping interests took over the foreign trade information service. The universities of Kiel and Hamburg also prepared reports on foreign countries.

In 1919 the Government again took steps toward the establishment of official machinery. At that time[9] an Imperial Economic Office was functioning in the Ministry of the Interior and a Foreign Trade Bureau was created in the Ministry of Foreign Affairs. The former was a research and advisory body, providing statistics and information on such economic matters as commercial policy, commercial treaties, economic aspects of tariff and taxation, insurance, business and financial institutions, and exhibitions. The Foreign Trade Bureau, on the other hand, gathered, assimilated, and disseminated commercial information for the benefit of German exporters. As the demands of the service caused the Bureau to expand and thus augmented the need for additional funds, it was discontinued in the following year.

In 1922, a new private company was organized under government sponsorship, it being termed German Economic Service, G.m.b.H., Berlin. This organization took up the work of disseminating information on foreign market possibilities. The entire government foreign trade promotion service then comprised, in addition to this company, the Federal Department of Economics (Imperial Economic Office) which distributed the reports submitted by German consuls; and a Tariff Bureau, which prepared information and rendered advice on tariff matters.

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[9] *Commerce Reports*, Sept. 27, 1919.

Further reorganization took place in 1927 when a Central Bureau of Information for Foreign Economics was created. This bureau was established under the joint control of the Foreign Office and the Department of Economics, the aim being to eliminate the duplication existing between the two departments.[10] It took over the distribution of reports received from German consular officers abroad, this function having formerly been performed by the Department of Economics. The Central Bureau was badly handicapped, as were former efforts to improve the service, by the lack of funds. It worked with the appropriate experts from different ministries, not possessing a staff of experts of its own.

With the increasing dissatisfaction resulting from the coexistence of competing services, there arose a demand for a more unified organization, or at least some degree of coöperation. As a result, there was created, late in 1929, a Central Bureau for the Promotion of Export Trade (Zentralstelle für Aussenhandel).[11] This combined the three disjointed units which had existed up to that time, *viz.*, the Central Bureau of Information for Foreign Economics, the German Economic Service, G.m.b.H., Berlin, and the Tariff Office of the Federal Department of Economics.

The new bureau is under the joint control of the Foreign Office and of the Federal Department of Economics. It is reported that considerable jealousy exists between these two departments, and unusual care is therefore exercised in the selection of personnel. For example, of the five leading officials employed in the Central Bureau, two are from each of the departments concerned and the fifth member is appointed by these four. Although the new organization is in charge of official foreign trade promotion, it is not concerned with fairs and exhibitions, export credit insurance, and certain other trade-promoting activities. Its primary activity consists of gathering and disseminating market possibilities for German merchandise and information relating to foreign market conditions.

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[10] Office of American Commercial Attaché, Economic and Trade Notes No. 227, Berlin, Oct. 4, 1928.

[11] *Ibid.*, No. 166, Berlin, Sept. 19, 1929.

The Central Bureau maintains direct contact with German consuls abroad who send the economic information which is collected directly to it. The bureau is permitted to write directly to consuls and to send them questionnaires without interference on the part of the Foreign Office or the Department of Economics. The fact remains, however, that, as in the United States, the consular and diplomatic services are unified and are supervised by the Foreign Office. Information is distributed to the public and to industrial and commercial interests through German Economic Service, G.m.b.H., Berlin, data of a confidential nature being distributed privately to those concerned while general trade information is published in the daily *Industrie und Handelszeitung*.

The German program of foreign trade promotion includes a comprehensive plan of export credit insurance and guarantees. This is administered by the Great Commission "composed of a representative of the Economics Ministry, the Labor Ministry, the Foreign Office, the Federal Insurance Control Office and of insuring and reinsuring companies. In addition, other members are appointed by the Ministry of Economics as representatives of economic circles, particularly the export branch."[12]

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[12] *Commerce Reports*, April 22, 1929, p. 197.

CHAPTER XI

PRIVATE TRADE PROMOTION AGENCIES IN THE UNITED STATES

The private foreign trade promotion agencies in the United States are adequate as to number and considerably varied as to interests. Some of them have been in existence for many years but others are either of comparatively recent origin or have added foreign trade information service to their program. The interests of all such agencies are general in character, as far as the promotion of the international business of the United States is concerned. In addition, most of them have a special interest to work upon and in this respect are found to be active in a narrower field.

Many trade-promoting organizations, in addition to the general matters to which they devote their attention, perform a personal service for the exclusive benefit of members or subscribers. This personal service, as will be seen, is reflected in several different lines of activity, none of which falls properly within the province of public trade promotion agencies. As the latter expand in general interest and attention to American foreign trade, certain functions formerly obtainable only from private sources are available through official governmental agencies, but some functions are of such a distinctive personal character that it is unlikely that public sources of information will ever supplant them; and there is always, as in other matters, a difference between public and private sources.

GENERAL FOREIGN TRADE SERVICE BUREAUS

In this group are found two principal bureaus whose work consists of the performance of personal service to subscribers at stipulated fees.

The National Association of Manufacturers of the United States of America.—The National Association of Manufacturers of the United States of America has, ever since its formation in

1895, maintained a direct interest in the promotion of the export trade of American manufacturers, this having constituted one of the principal reasons for its creation. During the early days of its existence, when interest in American export trade was at low ebb, the Association acted as a pioneer in introducing various phases of foreign trade information which at that time were unavailable from any other source. With the rapid expansion of the functions of the Bureau of Foreign and Domestic Commerce, the National Association of Manufacturers has since 1919 relinquished many of the services and publications in which it had from time to time been interested.[1]

Among the standing committees of the Association is a Foreign Trade Committee which in its report rendered at the annual convention voices the opinion of American manufacturers with respect to foreign trade matters. The Foreign Trade Bureau of the Association is in the Trade Department of the Association and its organization is as follows:[2]

1. Bureau of Trade Advisers:
    - (*a*) Latin American Division
    - (*b*) European Division
    - (*c*) Asiatic Division
    - (*d*) Domestic Division
2. Bureau of Information (Divisions):
    - (*a*) Commercial laws (foreign and domestic)
    - (*b*) Customs tariff
    - (*c*) Trade-mark registration
    - (*d*) Research
3. Credits Bureau (Divisions):
    - (*a*) Foreign credit reports
    - (*b*) Domestic investigations
    - (*c*) Foreign buyers and agents
    - (*d*) Disputed accounts (foreign and domestic)
4. Translation Bureau (Divisions):
    - (*a*) Latin languages
    - (*b*) Teutonic languages
    - (*c*) Oriental languages

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[1] Letter from W. M. Benney, Manager, Trade Department, National Association of Manufacturers, August 16, 1927.

[2] *Service to the Industries*, National Association of Manufacturers, 1925.

The bureau's foreign organization consists of over 2,500 correspondents.

The aim of the Foreign Trade Bureau is to provide a reliable personal service to the members of the National Association of Manufacturers at as near cost as possible. The annual dues of $100 entitle members to the services offered by the bureau with a limit usually placed on the amount of information available for this sum. Trade lists containing the names of buyers and agents are compiled and members are entitled to a reasonable number of names for any one country free of charge. These are arranged according to the trade concerning which the inquiry is made. There is also a limit on the number of credit reports issued to any one member free of charge in any one year. Additional reports are charged for at the rate of $2.00 each. Membership in the National Association of Manufacturers entitles the holder to translation of 10 business letters from or into the ordinary commercial languages in any one year, additional translations being charged for. All kinds of material—catalogues, advertising, etc.—may be translated. Information on patent and trade-mark registration is offered free of charge to all members and the Foreign Trade Bureau will undertake the registration of a trade-mark in any country in the world for stipulated fees. The Association does not provide a collection service as such, but lends its aid in obtaining payment of overdue accounts, and settlement of claims or disputes. Market reports on all articles and all countries may be obtained and foreign trade opportunities are transmitted to members. Service is extended to foreign buyers, either governmental or individual, who are visiting the United States. They are offered headquarters with the National Association of Manufacturers in New York and are assisted in their surveys and contacts here.

The Association has issued many publications relating to foreign trade. Its *American Trade Index* is a list of the members of the Association showing the products which they manufacture and their foreign connections. Explanatory matter and translations of business headings are printed in six different languages. The book is distributed abroad free of charge and its value in granting publicity to American manufacturers may easily be seen. The last edition of the book was that for 1920 when 25,000 copies were distributed. A later compilation is anticipated. Its *Washington Service Bulletin* is published semimonthly and shows government developments in all matters of interest to manufacturers. Its *Pocket Bulletin* is a monthly magazine, devoted to activities of the Association. The *Proceedings of the Annual Convention* are also available in printed form.

Foreign Trade Bureau of the Philadelphia Commercial Museum.—During the World's Fair at Chicago in 1893, Dr. William P. Wilson, a scientist and trade specialist, conceived the idea of permanently exhibiting the foreign wares and merchandise on display. After considerable work, which was made necessary by serious obstacles lying in the way, many of these exhibits were housed in Philadelphia. Subsequent world fairs and exhibitions contributed additions to this collection, until finally with the aid of private, municipal, state, and national funds, three buildings were acquired to shelter the Philadelphia Museum. This unique collection of raw and manufactured materials, much of which is arranged in such manner as clearly to show the successive stages of manufacture as well as the sources of supply, has given the Philadelphia Museum a unique position in the commercial world.

Soon after the Museum was organized, a Foreign Trade Bureau was created which, by 1902, was practically self-supporting. At the present time, the number of manufacturers and foreign traders comprising the membership of the Foreign Trade Bureau is nearly two thousand. A survey of the departments of this Bureau, together with a brief description of their functions, will indicate the foreign trade activities of this organization.

The Foreign Credits Department has accumulated reports on a half million foreign business houses. Information is obtained from the Bureau's own correspondents located in foreign countries and from other standard sources. A coöperative credit scheme has been devised whereby American foreign traders, upon submitting to the Bureau the names of their overseas clients, are kept advised as to any change in their credit status. The member availing himself of this service in turn agrees to provide any information he may possess, when requested, regarding his credit experience with any foreign concern.

The Foreign Agency Department actively solicits agency connections abroad for American lines which are felt to be in demand. Moreover, new foreign connections are sought for American manufacturers who are members of the Bureau.

Trade lists covering individual lines of goods and separate countries are prepared, based upon the credit and commodity standing of the houses named. In this connection, the Bureau maintains that its trade lists are "hand picked" and any name appearing thereon which at any time turns out to be unreliable is immediately removed.

Under a staff of skilled translators, correspondence, catalogues, etc., arising in connection with foreign trade are translated from or into any language. Information is provided as to the customs tariffs and consular regulations of any foreign country. Assistance is rendered in the solution of problems which arise in this connection. A foreign collection service is maintained and all methods of obtaining collection are employed.

The Foreign Trade Bureau, moreover, has for a number of years been engaged in collecting and installing samples of American manufactures, with the view ultimately to developing a comprehensive and permanent exhibition for the guidance of visiting foreign buyers. The Advertising Department takes care of the foreign advertising functions of the Bureau and prepares articles on American products and industries for the information of the foreign readers of the Bureau's publications.

Its most widely known publication is *Commercial America* and its Spanish counterpart *America Comercial*. These magazines appear monthly and carry advertisements of American manufacturers and exporters. The content of the magazines is educational in character, keeping foreign business men advised of commercial and industrial conditions in the United States especially. Two supplements to this paper are now published, one dealing exclusively with wearing apparel and the other with the automobile, hardware, and electrical trades. These are in reality reprints of material which appears in the magazines and are distributed to foreign business men interested in these lines. The *Weekly Export Bulletin* contains trade opportunities and foreign trade brevities. A *Register of American Manufacturers* serves the purpose of a directory for the guidance of foreign buyers in placing their orders. Various other pamphlets and compilations have been issued from time to time.

No description of the foreign trade activities of the Philadelphia Commercial Museum would be complete without mention of its library. This is devoted to commercial matters and is especially complete in its collection of foreign government statistics. It contains 50,000 books and 75,000 pamphlets with a value estimated to be in excess of half a million dollars. Directories and trade papers or magazines are also available in large number.

FOREIGN TRADE ASSOCIATIONS AND CLUBS

In this group are found organizations whose membership is interested in the special phases of foreign trade which they represent. To a large extent their purposes are the general promotion of American international commerce through the banding together of their members. Particular interests are also to be noted in the program of most of them.

The National Foreign Trade Council.—The National Foreign Trade Council is the spokesman for American foreign trade generally. It "was created in 1914 in order that constant and continuing effort might be devoted to the development of a national policy of foreign trade encouragement. Its function is to investigate the foreign trade problems of the United States and to advise on how these problems may best be met. The Council undertakes to perform no individual commercial service."[3]

In the broader sense of foreign trade promotion the National Foreign Trade Council studies, considers and reports upon questions of urgent necessity to American foreign trade. It was to some extent responsible for the passage of the Webb-Pomerene Act and has given unstinted consideration of and support to problems relating to the merchant marine, postal facilities, relief of American foreign traders from taxation abroad, foreign loan policy, bargaining tariffs, and many other subjects. Several booklets have been published representing studies conducted along specific lines and these, together with the proceedings of the annual convention, provide a valuable source of foreign trade information.

The annual convention is held at different trade centers where the addresses delivered and discussions conducted serve to clarify foreign trade matters. Members of the Council comprise a wide range of foreign trade activities. They are elected by the Executive Committee and "collectively reflect the interests of the various commercial, transportation, financial, manufacturing and agricultural factors of foreign trade, producing a concentration of experienced judgment adapted to yield conclusions and recommendations that make for sound national foreign trade policy."[4]

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[3] *Purposes and Personnel Activities and Achievements,* National Foreign Trade Council, p. 4.

The Council's Trade Adviser Service constitutes one phase of activity in which individual trade promotion is conducted. By means of this service, foreign trade questions and problems are answered by practical men who are widely experienced in the subject broached. For the small manufacturer just branching out into foreign trade this advisory service is especially valuable.

Among the regional organizations which are interested in foreign trade, mention should be made of the Pacific Foreign Trade Council. This is composed of industrial and commercial interests of the Pacific Slope and it seeks to encourage sound national foreign trade policies through coöperation with organizations of kindred aims.[5] The Council functions through the foreign trade divisions of the chambers of commerce of the Pacific Coast and meets in different cities in annual convention. The aim generally is to work toward "Pacific Coast unity for world trade expansion through greater production, industry and commerce."

Other gatherings of this sort include the International Foreign Trade Convention, the Southwest Foreign Trade Convention and the New England Foreign Trade Conference.

The National Council of American Importers and Traders, Incorporated.—A foreign trade promoting organization quite alone in its membership and purposes is the National Council of American Importers and Traders, Incorporated. "This organization was formed in March, 1921, for the purpose of bringing about an equitable adjustment of those laws and regulations which govern the entry of imported merchandise into the country."[6] Its membership comprises nearly one thousand American firms engaged in or interested in importing. They are thus buyers, rather than sellers, in international trade.

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[4] *Ibid.*, p. 5.

[5] Address of William Pigott, President, Pacific Foreign Trade Council, published in *Pan Pacific Progress*, November, 1928, p. 149.

[6] Letter from Frank Van Leer, Jr., Executive Secretary, National Council of American Importers and Traders, Inc., July 11, 1927.

The Council "is not a political or partisan organization in any way whatsoever; nor is it in favor of free trade, but primarily devotes its activities to securing for the merchant who imports, the same treatment as that accorded to the domestic merchant; in other words, before the creation of this association, the import merchants were more or less a disorganized body. With the formation of this association, however, creating a clearing house for views, ideas, etc., on imports, the importing merchant is provided with the facilities for intelligently protesting against discriminatory laws and regulations."[7]

This work is largely carried on by the Customs Committee and a Customs Adviser who coöperates with the committee. The Customs Committee comprising qualified tariff experts meets at least once each week and considers questions which have been placed before it by members of the Council. Matters considered of an inequitable nature are brought to the attention of the responsible authorities and changes are frequently obtained. The Council has rapidly gained recognition as an authoritative spokesman of American importers.

Members are provided with current information on the products which they handle and on general importing. *The American Importer,* published monthly, is the official organ of the Council. It presents, among other items, the decisions of the United States Customs Court and those of the United States Court of Customs Appeal, as well as Treasury Department Rulings and Tariff Commission activities.

The American Exporters' and Importers' Association.—The American Exporters' and Importers' Association was organized in 1907 by a few of the leading American export and import houses. Its active membership now consists of more than fifty such concerns. Representing, as it does, one class of American foreign traders, this Association confines most of its activities to matters for the benefit of the members.

However, the intimate relation existing between such middlemen and their foreign clients has caused the adoption of a program for the benefit of clients and for the general promotion of foreign trade. The Association aims to maintain "the highest standards of business ethics on the part of its members, and to admit to membership only those who measure up to such standards.''[8]

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[7] *Ibid.*

Embraced within the organization "are nineteen standing committees, of which ten are geographical, and whose function is to act on all questions relating to their respective division of the world, and nine general committees dealing with particular matters. . . . The work of the Association closely follows the purposes for which it was established. It acts as a clearing house for all problems, complaints, information relative to trade openings and connections, matters relating to shipping regulations, and proposed legislations both at home and abroad.''[9] Credit data are rendered available to members by means of interchange, and arbitration of disputes with foreign clients has aided in the cementing of friendship between American and foreign traders.

The American Manufacturers' Export Association.—The American Manufacturers' Export Association which was organized in 1911 to foster American foreign trade, at first comprised only manufacturers who were engaged in export trade, but its membership now includes concerns engaged in a wider range of activities. Its functions, more specifically, are to provide interchange of foreign trade information and experiences, to combine the influence of the members for the purpose of promoting legislation favorable to the export trade, and of eliminating obstacles which restrict that trade.

The interchange character of the trade information service is clearly demonstrated by the practice of referring questions raised by any of the members to other members who are qualified to answer them; or they may be placed before the permanent special committees. The latter offer advice on export financing practice, export shipping, registration and protection of trademarks, foreign advertising media and methods, and foreign legal matters and collections. *Overseas Trading Data Sheets,* issued semimonthly, present answers to questions that have been raised by members.

Foreign agents are often obtained through the efforts of other members manufacturing noncompeting articles which are sold to the same trade through satisfactory foreign agents. Trade opportunities are passed along to members likely to be interested. "Special Credit Reports" are prepared and sold at a nominal charge to members. Foreign visitors to the United States are offered the facilities of the Association and the membership list is treated as a buying guide for the use of importers abroad. Arbitration of disputes relating to export matters is also undertaken.

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[8] Pamphlet published by the American Exporters' and Importers' Association.

[9] *Ibid.*

In its declarations of policy regarding proposed legislation or conferences aimed to remove the obstacles to American foreign trade and also with respect to the provision of necessary facilities for the conduct of American foreign trade, the American Manufacturers' Export Association evidences a broad interest in the foreign trade of the United States. The annual meeting affords opportunity for discussing such problems.

Foreign Trade Clubs.—"The Export Managers Club of New York, Inc., is a clearing house for information on every phase of exporting. It provides the means for the interchange of experience and knowledge on export technique, selling and management. . . . Any member who has a specific trade problem may freely call upon any other member, who in the Club Spirit, is glad to assist in its solution."[10] This work is conducted by the Service Committee and it makes available for the free use of members a vast fund of export knowledge gained from actual experience.

At the club's semimonthly luncheons a free discussion follows the address delivered by some authority on a particular subject. A *Bulletin* is published, reporting all the meetings of the club including the annual convention and special publications are issued as the need occurs.

The Foreign Trade Club of Southern California,[11] which succeeded the World Traders, is an organization for mutual assistance and information along foreign trade lines. Regional groups, such as Latin-American, European, Australian, and Far Eastern, have been established for the purpose of conducting discussions of problems relating to the trade of and with any of these areas.

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[10] *The Aims and Purposes of the Export Managers Club of New York, Inc.*

[11] Letter from Edgar M. Wilson, First Vice President, Foreign Trade Club of Southern California, August 4, 1927.

The Boston Export Round Table[12] affords to foreign traders comprising its membership the opportunity of discussing intricate problems of a nature not usually treated in foreign trade literature. Moreover, committees have been appointed for the purpose of studying problems and procedure relating to various phases of foreign trade. These include a committee on export agreements and a committee to improve the handling of foreign drafts by banks, especially banks working through correspondents abroad.

The New England Export Club is an association of export executives organized for the purpose of (1) providing a medium for the interchange of experience and suggestions, and (2) aiding inexperienced executives in finding opportunities for the sale of their goods abroad. A permanent trade advisory service is maintained, and the club acts as host to foreign buyers and investigates complaints as to the export facilities of New England. In coöperation with the Boston Chamber of Commerce an annual Foreign Trade Conference is called.

CHAMBERS OF COMMERCE

Chamber of Commerce of the United States.—The Foreign Commerce Department of the Chamber of Commerce of the United States is actively engaged in the general promotion of foreign trade. This department keeps before the minds of American business men the important current developments in foreign trade and acts as a comprehensive source of information. The *Foreign Commerce Handbook,* published biennially, presents in convenient form the various publications and organizations from which foreign trade data may be obtained.

The Chamber represents the views of a large number of American business men and carefully considers and issues recommendations concerning current phases of foreign trade. Pending legislation is closely followed. "On a number of subjects of foreign trade interest the Chamber of Commerce of the United States has taken a direct policy position by referendum vote or by resolution in Annual Meeting. On many other foreign trade matters the Foreign Commerce Department Advisory Committee has made recommendations.''[13] Examples of matters considered are passports and visas—reduction of fees and elimination of vexatious requirements; tax exemption for Americans abroad; the American merchant marine; free zones in ports of the United States; and arbitration of trade disputes.

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[12] Letter from H. M. Morse, Chairman, Boston Export Round Table, July 30, 1927.

The Advisory Committee ''is composed of prominent foreign trade men in various branches of commerce and industry and from various sections of the country.''[14] Broad foreign trade questions, as those named above, are discussed in the Committee's meetings and the research conducted frequently leads to recommendations for legislation or for other steps to achieve the desired ends.

Individual and personal service is also rendered by the Chamber in the assistance granted to members in the solution of their export and import problems. Close coöperation is maintained with the United States Bureau of Foreign and Domestic Commerce. Trade opportunities and other current information which have come independently to the attention of the Foreign Commerce Department are passed on to local chambers of commerce having foreign trade interests.

Various publications are issued, some at regular intervals. Of these, *Nation's Business* (monthly) and *Our World Trade* (quarterly) are widely read, the former being the official organ of the chamber. *Doing Export Business* is a comprehensive lesson in instituting and conducting overseas trade, while *United States Trade Promotion Agencies Abroad* is especially valuable to foreign travelers.

Contact is maintained nationally and internationally. The Chamber brings together the interests of the widely scattered American chambers abroad, and the interests of the local chambers of commerce throughout the United States, trade promoting organizations, embassies and consulates, publications, and other organizations engaged in foreign trade work.

The International Chamber of Commerce.—The International Chamber of Commerce was created in 1920, as the successor of the International Congress of Chambers of Commerce and Industrial and Commercial Organizations, which from 1904 to 1914 held biennial meetings. Following the War, the need for a permanent organization was felt and, as a result, the International Trade Conference was called in 1919 by the Chamber of Commerce of the United States of America. Representative business men of Great Britain, France, Italy, and Belgium were invited to attend. A conference was called for the following year to meet in Paris and at this gathering, the International Chamber of Commerce was organized.

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[13] *Foreign Commerce Handbook*, Chamber of Commerce of the United States, 1930-31, p. 43.

[14] Letter from E. L. Bacher, Manager, Foreign Commerce Department, July 2, 1927.

This organization provides a means whereby the business and economic interests of the various countries of the world become united for discussion and solution of matters vitally concerning them. The chamber has been invited to participate at important international gatherings of government officials and has become party to conventions drafted at such meetings. The purposes of the International Chamber of Commerce, as stated, are "to develop international trade, to suppress those barriers which hamper commercial exchanges, to strengthen the bonds which link the various nations together, to counteract the causes of economic conflict, and thereby contribute to the maintenance of peace."

Its membership is composed of nongovernmental organizations —810 chambers of commerce, industrial associations, institutes of bankers, shipping conferences, and economic bodies; and 2,100 business firms and corporations have been admitted as associate members. In twenty-four of the countries represented in the International Chamber of Commerce the members are organized into national committees, the American Section, as it is called, being located in Washington. It is represented in Paris by an Administrative Commissioner.

Among important commercial matters on which progress has been made by the International Chamber through committee consideration, and by action at its Congresses held every two years, are: arbitration of international commercial disputes; protection of industrial property; elimination of double taxation; definition of trade terms; removal of import and export prohibitions and restrictions; improvement in passport and visa regulations; uniformity in letters of credit, checks, etc.; compilation of sources of credit information; documents and regulations affecting transportation and communication; international settlements; and removal of trade barriers.

American Chambers of Commerce in Foreign Countries.—Occupying a singular position in the field of foreign trade promotion are the American chambers of commerce located in foreign countries. They have grown rapidly in number, service, and prestige since the expansion of American overseas trade during the War, and the conspicuous service which many of them rendered in securing adjustments made necessary by the post-War business depression has demonstrated their real worth to American interests. There are now thirty-five United States chambers located in twenty-three foreign countries, China leading with eight.

These organizations are composed primarily of American business men engaged in business in foreign countries. As such they consist of a small group of aliens in a foreign land, possessing wide powers for good or evil. They are taken as representing the American public and as its spokesmen. Their interests are primarily commercial and their relationships are personal. They are thus unofficial Americans on the "firing line" of foreign commerce. In addition to Americans resident abroad, membership privileges are usually extended also to foreigners and nonresident Americans interested in United States trade with the country in which the chamber is located.

The purposes for which American chambers of commerce abroad have been established were discussed at a group meeting of the Foreign Commerce Department of the Chamber of Commerce of the United States and three distinct lines of thought were shown as evidenced by the preambles of these chambers, *viz.:* "(1) To coöperate with the diplomatic and consular representatives of the U. S. A. in (*country*) in advancing commercial intercourse and friendly relations between the two countries and peoples; (2) to promote the interests of (*country*) in the U. S. A.; (3) to promote the commercial and industrial interests of (*country*)."[15]

Their outstanding activities may be summarized as follows:[16] (1) They protect American interests by taking legal steps to oppose discriminatory legislation or practices of the foreign country; by arbitrating trade disputes and obtaining settlements out of court; by assisting American travelers abroad; and by performing other services. (2) As organs of publicity for American ideals, institutions, and policies, foreign chambers of commerce endeavor to remove irritations and bring about better understanding. (3) They promote American foreign trade. Various individual services are rendered in this connection. These may be the publication of trade opportunities; issuing of statistics or information of any type regarding the market in which they are located; recommending the names of prospective agents for American exporters and importers; directing inquirers to reliable sources of credit information; offering its facilities as headquarters for travelers, mail address and sample displays; preparing introductions to business men for the use of American travelers; adjusting trade disputes; translating correspondence; and bringing employees and employers together.

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[15] W. P. Field, "Relations of American Chambers of Commerce Abroad to United States and Foreign Governments," *American Chambers of Commerce Abroad*, Chamber of Commerce of the United States, May 11, 1926.

[16] Edward F. Feely, "How the American Chamber of Commerce Abroad Helps the American Foreign Trader," *ibid.*

Few, if any, chambers of commerce under discussion perform all of these services, but as demands are made upon them rapid expansion may be anticipated. Close coöperation is maintained with United States Government representatives in the country where located and more than two-thirds of them are members of the Chamber of Commerce of the United States.

Foreign Chambers of Commerce in the United States.—According to the Chamber of Commerce of the United States there are thirty foreign chambers comprising twenty-one nationalities located in this country. Their membership consists principally of nationals of the particular foreign country resident in the United States and Americans interested or engaged in trade with that country. With few exceptions, the latter comprise the bulk of the membership. The Japanese chamber in San Francisco, however, comprises only Japanese merchants in and around that city.

The purposes of these chambers are to promote commercial and cultural relations and understanding with the United States. In pursuance of these functions, trade promotion is conducted in the same manner as is found in the case of American chambers of commerce abroad. Indeed, there is often a close relation existing between these outposts of trade located here and in foreign countries. For example, the Netherlands Chamber of Commerce in New York, Inc., works in coöperation with the

Netherlands American Chamber of Commerce in Amsterdam. This contact is valuable for the advancement of their mutual purposes.

Aside from the direct promotion of trade, *e.g.*, preparing market reports, lists of customers, letters of introduction, soliciting agencies, etc., other services are in some instances being performed. In at least one instance, a translation department is operated for the benefit of members. Credit investigations are made by some and a few lend active assistance to the collection of overdue accounts. One foreign chamber in New York offers a rebate of 30 per cent on tickets purchased for traveling to the country whose interests it represents. This offer applies only via a specified steamship line. Another chamber grants reductions in rates for advertising in several publications which circulate in the home country. At least three chambers maintain in the United States exhibitions of foreign merchandise and several act as official representatives in this country of certain interests and publications domiciled in the foreign nation. Legal guidance is often granted and aid in selecting attorneys is offered. Facilities for the arbitration of commercial disputes are provided by some chambers and further development of this function is in progress.

Some chambers are exceptionally active in promoting an understanding of the country in which they are interested. Press releases are regularly issued, giving authentic, current trade information. One chamber has circulated two films depicting scenes abroad and stimulating interest in travel. Another offers special rates for courses in the language of the foreign country and many chambers conduct libraries which are well stocked with books, pamphlets, magazines, and newspapers. It is quite common to find that these bodies issue a publication, usually at monthly intervals. Moreover, special bulletins or reports and annual directories or yearbooks are issued. In these ways, efforts are exerted toward disseminating information which will lead to a better understanding of foreign nations and their problems.

Local Chambers of Commerce in the United States.—"Fifty-eight cities in twenty-five different states now maintain foreign trade bureaus in their local commercial organizations. The steady growth in the number of such bureaus during the past eight years since 1918 and the increasing demands made upon them for service are a surface indication of the substantial interest that American concerns are taking in foreign markets for their products.'' [17]

The foreign trade bureau of a chamber of commerce is in charge of a person usually designated as foreign trade secretary. In such organizations the promotion of foreign trade is localized as closely as possible. The foreign trade bureau is maintained for the purpose of fostering the export and import business of the members and constituents of the chamber; to keep them advised along any and all lines of foreign trade; to arouse and instill an interest in overseas business in those not yet engaged in foreign trade.

Local chambers of commerce are members of the National Chamber at Washington and many of them are coöperative offices of the United States Bureau of Foreign and Domestic Commerce. These connections place at their disposal the vast amount of information available through these organizations.

The specific foreign trade services rendered by local chambers of commerce are too numerous to mention. The Foreign Commerce Department of the Chamber of Commerce of the United States lists twenty-seven items as a guide to the information which such an organization should have on hand or know where to procure. Many, however, have stressed certain matters which are considered of more immediate significance. Thus, the question of port and harbor facilities, shipping routes and rates, steamship facilities and other transportation matters have comprised a large share of chamber of commerce interest. One chamber, being located at an interior point, has concentrated on the use of through bills of lading in making foreign shipments; another has specialized in assembling customs rates and financial reports; another has had considerable success in arbitration work and in the standardization of trade terms and procedure in certain trades; others sponsor export clubs. One local chamber has organized a Society of Foreign Consuls, and another has extended its direct activities overseas by establishing foreign branches and employing a traveling trade commissioner. Some chambers entertain foreign visitors and one of them has a representative meet all incoming passenger vessels for the purpose of welcoming such visitors. This chamber has also worked out a plan of publicity by writing each week for the columns of foreign publications. Another local chamber of commerce has undertaken the handling of the details of the initial shipments of beginners, and it endeavors to maintain effective contact with a group of 540 commercial organizations in foreign countries. These instances may be taken as illustrative of the special foreign trade activities of some chambers of commerce and by no means exhaust the list of functions that are performed.

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[17] Chamber of Commerce of the United States, circular, "Foreign Trade Bureaus in Local Commercial Organizations," September, 1926.

TRADE ASSOCIATIONS

In a pamphlet entitled *Foreign Trade Promotion,* published by the Chamber of Commerce of the United States, it is stated that trade associations are in a particularly favorable position to promote foreign trade along the commodity lines which they severally represent. Close contact is maintained between trade associations and the appropriate commodity divisions of the Bureau of Foreign and Domestic Commerce. Some associations have engaged actively in foreign publicity work. Considerable attention has been directed to import matters by associations whose membership is dependent upon foreign sources of supply.

> A number of miscellaneous activities in foreign trade promotion, which appear to have special application to the work of trade associations, are given below:
>
> Associations find it profitable to keep in close touch with developments in foreign legislation, especially tariffs and consular regulations, in so far as new proposals are likely to affect the export or import trade of the association or in so far as changes in legislation appear desirable.
>
> In bringing matters of international policy to the attention of world interests associations have found coöperation through the American Section of the International Chamber of Commerce productive of results.
>
> At times associations find it advisable to publish brief statements of the objects of the associations, together with lists of members, printed in various commercial languages, for distribution to interested trade contacts abroad and for use in replying to foreign inquiries.
>
> Some associations maintain libraries of the more important foreign books and periodicals which have appeared in their particular trade fields.
>
> Information is gathered about trade associations in the same field in foreign countries, also about foreign sources of information. The

compilation of this material and its issuance in the form of a handbook of international sources may at times be a profitable undertaking. Coöperative exchange of information with foreign associations has proved helpful.

The publication, in important commercial languages, of a directory of the technical and trade expressions and terms of the industry is found to facilitate trade relations with foreign customers.

The translation of industrial and trade standards into foreign languages and the establishment of standards of quality, etc., for export trade where they do not exist, is a worthwhile undertaking.

Associations also give attention to cable codes. One association has published an extensive cable code applying to its particular industry.

The attention of associations is at times directed to the level of freight rates applying to export and import shipments of commodities in which it is interested; the establishment and maintenance of steamship services between the United States and the foreign countries in which the association is interested at times calls for the association's support.

The sharing of experiences with regard to the best forms of export packing for the commodity produced by the association is at times on the program of work.

Interchange of credit experience, in different markets and with common foreign customers, and exchange of information with regard to general business conditions in various foreign territories may at times be suggested by the association as a profitable undertaking for the export managers of its members.

At times patent and trade-mark piracy in foreign countries calls for the attention of the association, particularly in assisting members to combat these evils.

At times associations can assist members in collecting overdue accounts by bringing pressure to bear, in the name of the association, upon delinquent foreign debtors.

When members of an association are interested in forming a combination for export trade under the Webb-Pomerene Act, the association can be of assistance.

Some associations have found it profitable to bring to the United States for conference foreign importers of the product and foreign government officials, experts and others whose opinions may have some bearing upon the prosperity of American export business in the particular line of trade. The World Motor Transport Congress is a good example of this kind of conference.

At times American trade associations have undertaken to send to foreign countries good-will missions for making contact with the foreign industry or special missions to discuss with interested business men in the foreign country the establishment of reforms necessary for the promotion of the mutual business interests of the trades in both countries.

In cases where associations publish trade journals, it has been found helpful to publish statistics of exports and imports, trade opportunities, and special trade notices received through government or other channels.

At times arbitration committees established in the trade associations are called upon to handle cases having a foreign trade character.[18]

MISCELLANEOUS

Foreign Trade Journals.—A survey of the sources of foreign trade information available to the American exporter and importer would not be complete without mention of the work performed by export and import journals. These journals are sometimes considered without the pale of the present discussion largely because they grant their service only to those who advertise in their pages or who manifest interest as a subscriber. This restriction, however, applies also to any other private trade-promoting organization which on one or another basis designates those to whom its service is available. A more significant distinction may perhaps be drawn from the fact that such journals are in the publication business primarily and in trade promotion secondarily, whereas this order is reversed so far as distinctively trade-promoting organizations are concerned.

To catalogue the list of services performed for American exporters and foreign buyers by such well-known foreign trade journals as *Importers Guide, El Hacienda, American Exporter*, and others, would be to practically duplicate many of the functions mentioned in connection with private trade promoting organizations. The attitude taken by these journals is well exemplified by the slogan ''Advertising plus Marketing'' issued as descriptive of the service offered by *Importers Guide.* In an attractive compilation prepared by this journal are listed forty-six separate foreign trade subjects on which information and assistance are available to advertisers, and a final service concludes, in part, as follows: ''General Advisory Service—We have briefly listed for your reference a few of the many subjects in Foreign Trade which we are dealing with daily as part of our active service.''

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[18] *Foreign Trade Promotion by Chambers of Commerce and Trade Associations*, Foreign Commerce Department, Chamber of Commerce of the United States, pp. 34-36.

There is no gainsaying the fact that export and import journals have developed a surprising degree of foreign trade information service. Active interest in the problems of their advertisers and subscribers is becoming increasingly important in their work.

Commercial Agencies.—Commercial agencies (Dun's and Bradstreet's) which are famous as mercantile credit reporters, are in a position to render various other types of service for American foreign traders. One service is the preparation of lists of foreign buyers under the supervision of a branch office located in the territory for which the list is compiled. These are sold at a nominal figure. Letters of introduction are granted to commercial travelers going abroad, thus affording to them the facilities of the agencies' foreign branches. Other promotive work is performed, depending upon particular requirements. Collections and settlements of disputes are handled in greater volume each year.

Financial Organizations.—The American Acceptance Council in addition to its distinctive work in connection with the standardization and adoption of letters of credit has given its support to programs of foreign trade promotion. Close coöperation has always been maintained with the National Foreign Trade Council; and the American Acceptance Council coöperated with the Department of Commerce in the matter of uniform ocean carrier bills of lading.

Many banks which are engaged in international financial operations provide foreign trade information for their clients. This is especially the case when foreign branches and correspondents are maintained. General market information is prepared and several banks have issued instructive publications bearing on certain foreign markets or special phases of foreign trade.

In addition, personal service, particularly in connection with financial operations, is rendered. Some banks assist their clients in obtaining foreign agency affiliations and give advice on matters relating to their foreign business.

COLLATERAL READINGS

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PART III

THE EXPORT AND IMPORT TRADING ORGANIZATION

CHAPTER XII

EXPORT AND IMPORT DEPARTMENTS

In our consideration of the trading organization in foreign trade, the first problem relates to the headquarters control which the foreign trading concern should establish. It should be clearly understood that the foreign trade department here considered is not in itself a method of exporting or importing. It is merely the home organization which supervises and which works in connection with and through the various channels to be discussed in subsequent chapters. The question, therefore, is largely one of administration. Just as some facility for management is necessary when the functions and scope of a business concern are increased or expanded, so provision is to be made for the efficient supervision of the export or import business of an enterprise when it expands into foreign trade. As discussed later in this chapter, supervision may be provided by utilizing the present home organization, and, frequently, adding a manager who coördinates the whole; or by creating an entirely separate and distinct department or company.

Realizing that a foreign trade department is largely for the purpose of concentrating interest in and attention to the export or import phase of the business, a need for the department exists irrespective of the particular channels employed to conduct the trade. Even when business is transacted through houses located in the United States, as discussed in the next chapter, it may be advisable to establish a special department, no matter how small, to deal specifically with this work. This is not because such a wide difference necessarily exists between domestic and foreign trade practices, but because of the need of maintaining foreign trade consciousness in an organization.

ORGANIZATION OF THE DEPARTMENT

The simplest manner in which the export business of a concern may be administered at headquarters is by distributing the foreign work on a functional basis among the personnel already engaged in the same type of domestic work. In such a plan, called "built-in," a term popularized by Mr. Walter F. Wyman, General Sales and Export Manager of the Carter Ink Company, the only additional assistance required is that of the export manager. The "built-in" organization utilizes the personnel set-up as it exists and attempts through the instrumentality of an export manager to give foreign trade its proper balance and attention. Sales may be supervised by the sales manager in cooperation with the export manager or they may be entirely under the export manager. The treasurer or cashier handles all of the financial arrangements and the credit man devotes part of his time to foreign credits. No special set-up is created for the placing of orders, handling of documents, packing of merchandise, advertising, or any other functions.

The flexibility, economy, and simplicity of this plan may be readily grasped, although the efficiency with which the foreign work is conducted, particularly in the case of exports, is not always so marked. The responsibility is placed upon the export manager to instill in those who are actively engaged in it an interest in, and enthusiasm for, the foreign work. With no superior standing as an executive, he is unable to issue orders. The degree of tact and personality he possesses alone determines the extent to which he will be successful in obtaining adherence to his plans and ideas.

The difficulties of the manager in such an organization may be readily seen. He must suggest to capable, experienced fellow-officers in the company precisely how and what changes should be made in product or procedure in order to meet the needs of the foreign trade, as the export manager sees them. He seeks to induce the credit manager to be more liberal in the granting of terms. The advertising manager, who is recognized as an expert in publicity methods, is to be shown the peculiar conditions surrounding export advertising. The traffic manager, who may have worked out to a science the methods of packing merchandise for safe and economical movement over American railroads, is advised to begin anew in the preparation of overseas shipments. Production methods which after tedious efforts may have been fully standardized, may be altered to provide a different make-up or assortment for the foreign customers. In all of the ramifications of the business, the export manager endeavors to secure adherence on the part of the personnel to conditions and requirements as he knows them to exist in foreign trade.

The success of this plan of organization is obviously dependent upon the ability of the export manager in persuading his colleagues to recognize the peculiarities and to make such alterations as are necessary in the foreign trade. Human nature is such as to cause the normal department head to feel a certain smug complacence in his knowledge of the line in which he has specialized. The success of the "built-in" department is further assured by proper executive control over the foreign business. If the manager is left entirely to his own resources, it is, indeed, a difficult, and possibly an abortive, plan of organization. When the president or a vice president is vitally interested in the foreign business, however, the scales will fall in favor of the export manager. Conferences among the various department heads, and with the executive in control, provide a greater guarantee of coöperation and attendant success than could otherwise be expected.

This plan is comparatively simple, and is employed by a large number of foreign trading concerns. In spite of the fact that it is particularly well adapted to the needs of small exporters, it is also employed by companies which conduct a large volume of business. Not only is the feature of economy an attractive one but in some instances the feeling also prevails that foreign and domestic business are essentially identical and specialization therefore uncalled for. One manufacturer of hats, for example, who holds to this belief, trains all employees so that they are capable of handling both export and domestic orders with equal facility. He believes that greater efficiency is provided by this interchange of functions than by the employment of separate and distinct foreign trade personnel. In this way, it is unnecessary to create a special organization or facility to administer foreign business. Moreover, there is an even employment of time since employees are capable of handling all business, irrespective of its origin, and a slump in one line has no serious effects upon personnel.

Import departments of the "built-in" type are especially common. Indeed, among importing manufacturers there is rarely an import department of any type distinct from the purchasing division. When orders are placed with foreign middlemen or producers, the purchasing division finds no difficulty. Buyers who are sent abroad by retail stores and specialty houses are often the heads of the selling departments and they handle their respective lines both in purchases and sales. Technical details associated with importing are generally attended to by customs brokers and the traffic department handles the physical movement of the merchandise from the port of entry. The organization of the business is thus fitted to procure merchandise from any and all sources, foreign as well as domestic. In some instances, raw materials and semi-finished, as well as finished manufactures, are obtainable only from abroad and the entire purchasing function then consists of importing. When either foreign or domestic sources may be tapped, the selection of either or the concurrent use of both are so closely related as to render unnecessary the organization of a special import purchasing department.

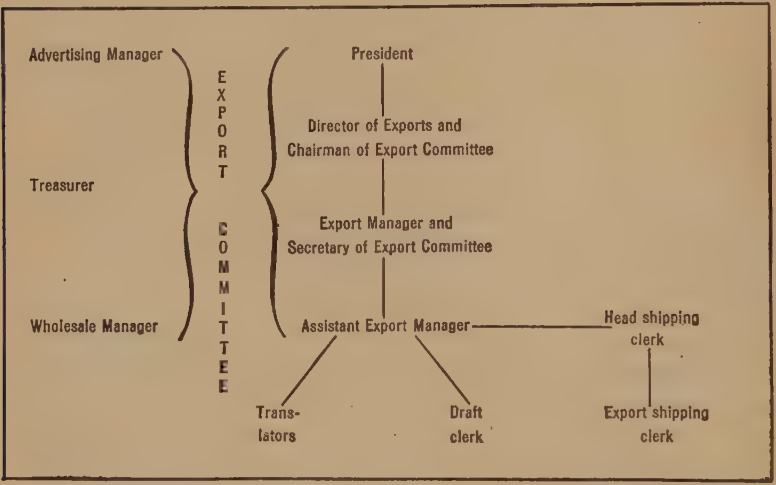
Advertising Manager
Treasurer
Wholesale Manager
EXPORT COMMITTEE
President
Director of Exports and Chairman of Export Committee
Export Manager and Secretary of Export Committee
Assistant Export Manager
Head shipping clerk
Trans-lators
Draft clerk
Export shipping clerk

CHART IV. ORGANIZATION OF A BUILT-IN EXPORT DEPARTMENT

The "built-in" idea begins to give way when certain individuals or sections of the business are assigned exclusively to the foreign work. This may be done without setting up a separate and complete foreign department. For example, the control over foreign trade may be centralized in the hands of a group or committee of department heads or officials. As shown in Chart IV this committee may consist of the president of the company, *ex officio;* the director of exports who is also chairman of the export committee; the export manager who also is secretary of the committee; the advertising manager; the treasurer; and the wholesale manager. This committee determines all questions of policy relating to the export trade of the company. Credit and advertising problems, for example, are handled with full appreciation of foreign peculiarities and necessities, since the men in charge of the export work occupy a consultative as well as directive position in the selection of policies. The export manager, in this type of "built-in" organization, instills the foreign trade spirit, engenders coöperation and good-will, and actively prosecutes the program. Moreover, he maintains direct contact, as do the other officials, with the overseas distributors and managers of foreign subsidiaries. The assistant export manager attends to the detail work involved and to all documentary procedure. A half dozen clerks comprise the rest of the export department set-up and, as shown in the chart, they deal with translations, draft transactions and shipments.

The same general scheme may also be followed by large importing establishments, particularly those engaged in the retail business. In one large company which does not have a separate import department, the import phases of the business are managed by "foreign divisions" set up in the principal departments of the company. In the merchandise department, for example, the "foreign division" assembles data for the use of the commodity buyers, maintains all records relating to imported merchandise, works in coöperation with the advertising manager and in other ways concentrates on the service associated with the importation of merchandise. The accounting department, through its "foreign division," keeps the accounts relating to imports, issues vouchers, and pays all bills. Other departments are similarly engaged in foreign trade work.

The Separate Department.—When a separate and distinct set-up of all portions of the organization which deal exclusively with important phases of the foreign work occurs, a separate department is established. This may be a department within

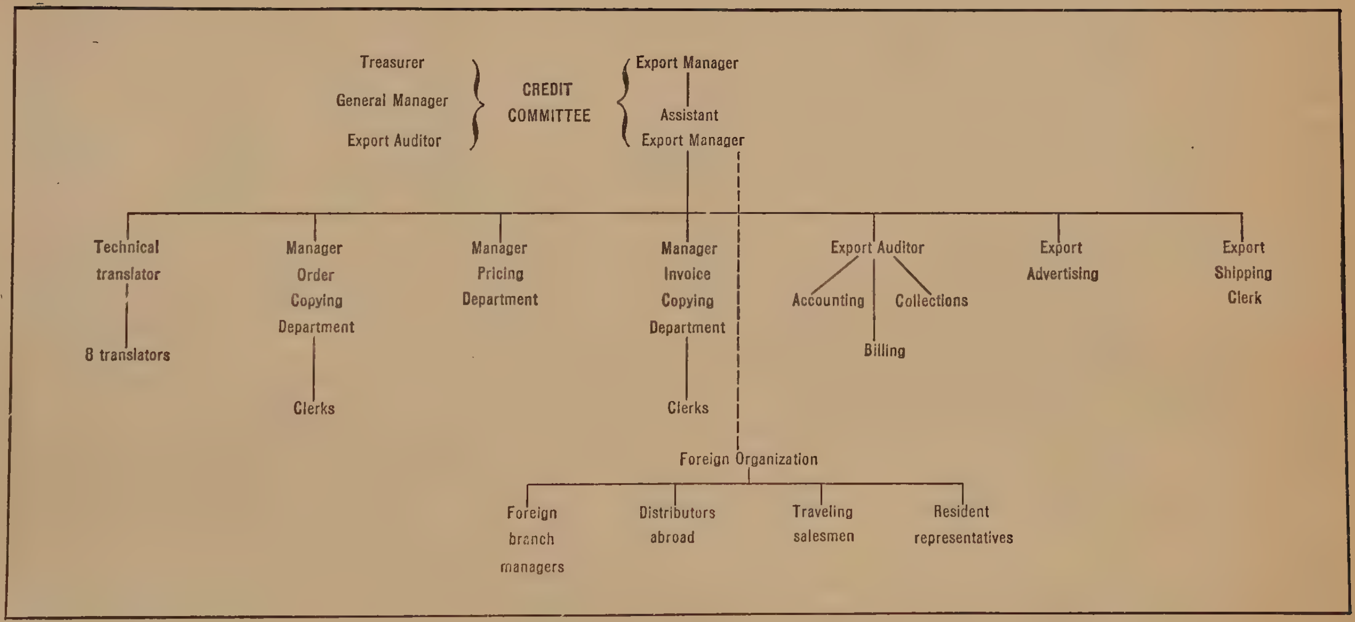
Treasurer
General Manager
Export Auditor
CREDIT COMMITTEE
Export Manager
Assistant Export Manager
Technical translator
8 translators
Manager Order Copying Department
Clerks
Manager Pricing Department
Manager Invoice Copying Department
Clerks
Export Auditor
Accounting
Billing
Collections
Export Advertising
Export Shipping Clerk
Foreign Organization
Foreign branch managers
Distributors abroad
Traveling salesmen
Resident representatives

CHART V. ORGANIZATION OF A SEPARATE EXPORT DEPARTMENT the company or it may be organized as a distinct corporate entity ✓ apart from the parent company.

In the separate department, the foreign manager is as essential as in the case of the "built-in" department. Frequently, however, he is subordinate to some other official, usually a vice president, who is in charge of the firm's foreign trade.

A separate export department is graphically presented in Chart V. This department is organized on the functional basis, ✓ which is the usual form of organization for medium-sized concerns. Another set-up which is particularly adapted to the needs of a large company is shown in Chart VI. This plan, as may be seen, is dominated largely by a territorial or geographical division of the work. Some functional managers are also employed and, in addition, a manager for one commodity line. This chart, therefore, depicts an organization reflecting all three of the variable methods of organization, *viz.:* territorial, func- ✓ tional, and commodity.

The separate department handles all of the functions relating ✓ to the export trade, with the exception generally of production. The number of divisions and the size of the personnel are entirely dependent upon the volume of the business. Referring again to Chart V, the export manager who is in charge of the department, supervises all foreign sales and selects, prepares and dispatches the salesmen who coöperate with the distributors abroad. The manager also selects and controls the distributors as well as the managers of the five foreign branches of the company. He makes periodical visits to the foreign sales outlets. Moreover, in coöperation with a commercial artist, who also assists the domestic advertising manager, the export manager devises the publicity plans for the foreign business. The assistant export manager, in this plan, is the office manager and he supervises the operation of the department when the export manager is traveling abroad. The pricing department calculates the price quotations, discounts, etc., and when orders come in from abroad they are transcribed by the order-copying department, copies being sent to the various divisions which are interested. All correspondence and advertising which are to be translated either into English or into foreign languages are handled by a staff of nine translators, one of whom is a technical expert in the particular line handled by the company. Orders are filled,

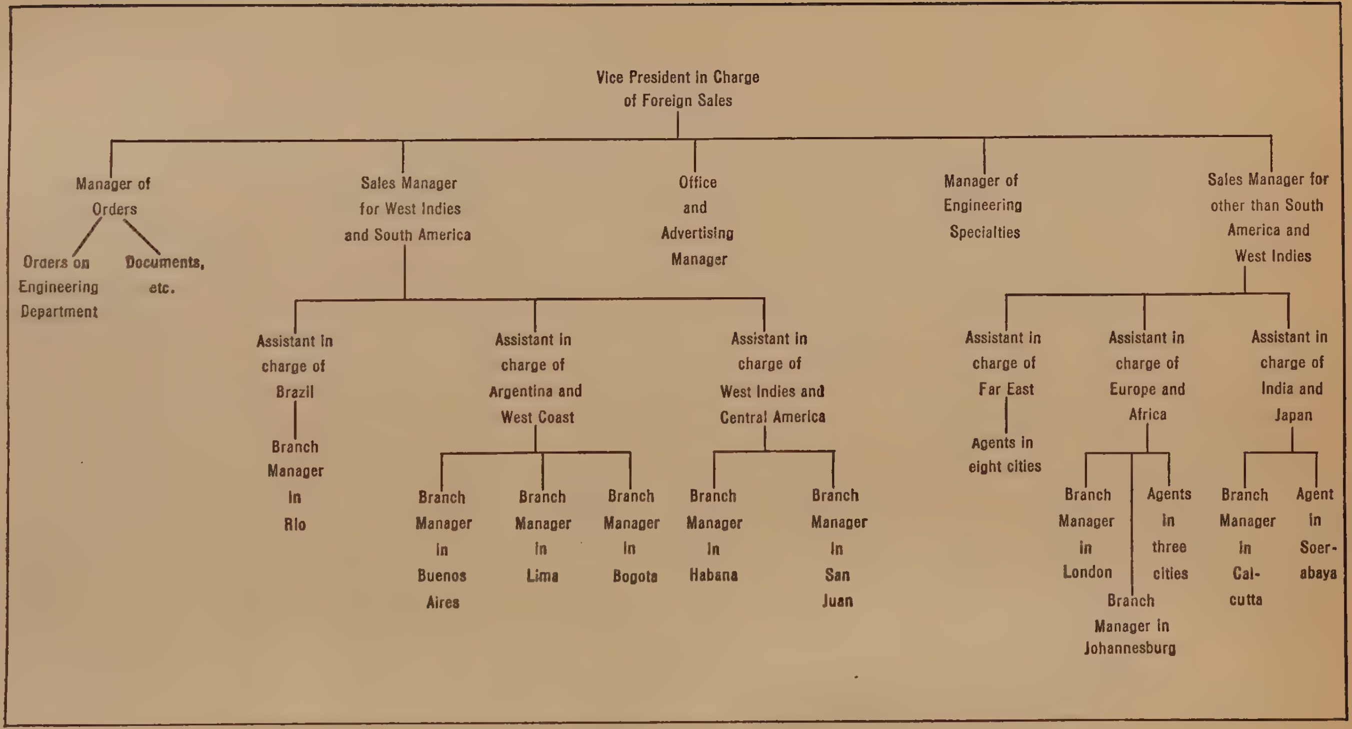
Vice President in Charge of Foreign Sales
Manager of Orders
Orders on Engineering Department
Documents, etc.
Sales Manager for West Indies and South America
Office and Advertising Manager
Manager of Engineering Specialties
Sales Manager for other than South America and West Indies
Assistant in charge of Brazil
Branch Manager in Rio
Assistant in charge of Argentina and West Coast
Branch Manager in Buenos Aires
Branch Manager in Lima
Branch Manager in Bogota
Assistant in charge of West Indies and Central America
Branch Manager in Habana
Branch Manager in San Juan
Assistant in charge of Far East
Agents in eight cities
Assistant in charge of Europe and Africa
Branch Manager in London
Agents in three cities
Branch Manager in Johannesburg
Assistant in charge of India and Japan
Branch Manager in Cal-cutta
Agent in Soer-abaya

CHART VI. ORGANIZATION OF SEPARATE EXPORT DEPARTMENT OF A LARGE MANUFACTURER packed, and shipped by the export shipping clerk from the separate stocks maintained expressly for the foreign business. All accounts of the export department, as well as records with the branches and distributors, are kept by the export auditor, who also makes out the bills on the basis of the invoices prepared in the invoice-copying department, and attends to the collection of foreign accounts.

In the handling of credits, a special credit committee, consisting of the export manager, treasurer, general manager, and export auditor, is created. Except for this one important phase of the business, the export department is autonomous in every respect.

The export department organization shown in Chart VI emphasizes the territorial specialization which this particular company finds desirable. The product in question is an expensive engineering vehicle and buyers are frequently government officials. Close contact with responsible purchasers is therefore required. The department is in charge of a vice president of foreign sales. Two sales managers are employed, each in charge of a broad territory, and under these export officials come the assistant sales managers who supervise a smaller geographical area. All of the details relating to the business are handled in the respective territorial departments. A separate office and advertising manager is employed and requisitions on the engineering (manufacturing) division, as required to fill export orders, are transmitted through a separate manager. Credits and financing are especially important in this concern due to the large sums of money involved in individual orders. This work is handled principally by the finance department, in collaboration with the vice president in charge of foreign sales and the particular sales managers concerned. Whenever orders for products that are not manufactured by this company are received in connection with large construction projects abroad, the manager of engineering specialties communicates with American producers of such articles with a view to placing the orders with them.

Separate import departments are also to be found but not to the same extent as in the case of exporting concerns. The reasons for this were stated previously. Perhaps the greatest need for a separate import department is felt by large department stores and retail specialty shops. The ramifications of their business, both from a commodity and a territorial angle, are so great that centralization of their import business may be highly desirable. Moreover, the technical details of customs clearance are in themselves sufficient to warrant the establishment of a special import department, if only to handle these activities. In many instances, import departments are organized largely to displace the customs broker. In other cases, however, it is a complex ramified import department.

By referring to Chart VII the organization of the foreign (import) office of a large department store may be seen. This department does not itself select the merchandise which is purchased abroad, but it renders every facility and assistance in this connection. The service feature of the plan is particularly pronounced. Under the manager in charge of the foreign office come four assistants, each responsible for one broad phase of this service activity. One is in charge of bringing imported merchandise into the store. Since the classification of all articles according to the tariff law, and the actual duty to be paid, bear a decided relationship to the profitable saleability of a product in this country, a staff of clerks is engaged in conducting studies along these lines. The duty rate clerks are specialists in the classification principles of the United States customs authorities. Further mathematical work is required to compute the total landed cost of foreign purchases, including, of course, the estimated import duty. On the basis of these computations the merchandise departments on whose counters the imported products will be placed for sale are billed. Traffic work consists of expediting the release and the carting of imported merchandise from steamship piers and appraiser's store. It is to be noted that this particular company employs customs brokers to attend to the documentation at the customs house. The same branch of the foreign office inspects imported merchandise to determine its condition upon arrival. On the basis of these surveys, claims for damage are filed against the carriers or the foreign suppliers, whichever may be held responsible. Lastly, this branch transmits to foreign banks the funds which buyers or agents will require to pay for foreign purchases.

The contact phase of the service rendered by this particular foreign office is considered of special importance. It promotes contact between the foreign buyers and the merchandise (selling) departments and also between the foreign branches and the United States markets. This contact work enables the foreign channels to know the current demands for merchandise in the United States. One way of accomplishing this is to clip and send abroad articles from magazines showing current trends in the United States. The same division also prepares buyers' itineraries, transmits abroad the purchase orders which buyers or their assistants have prepared and attends to correspondence and cables.

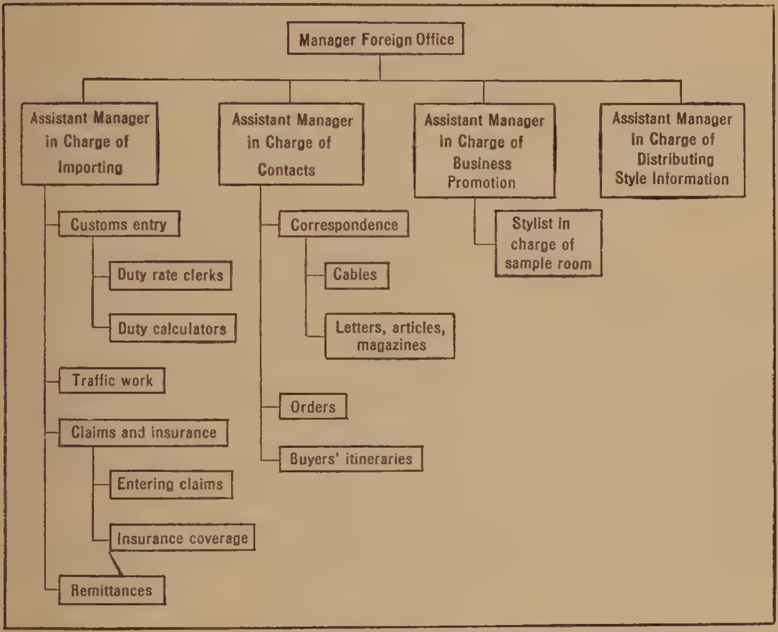
Manager Foreign Office
Assistant Manager in Charge of Importing
Assistant Manager in Charge of Contacts
Assistant Manager in Charge of Business Promotion
Assistant Manager in Charge of Distributing Style Information
Customs entry
Duty rate clerks
Duty calculators
Traffic work
Claims and insurance
Entering claims
Insurance coverage
Remittances
Correspondence
Cables
Letters, articles, magazines
Orders
Buyers' itineraries
Stylist in charge of sample room

CHART VII. ORGANIZATION OF FOREIGN (IMPORT) OFFICE OF A LARGE DEPARTMENT STORE

The third division of the foreign office—business promotion—is devoted to the expansion of the imports of the company by seeking new lines that may be carried. This is performed in the foreign office by means of sampling. The company does not believe that buyers can adequately tap all desirable supplies of merchandise when traveling abroad. The foreign branches in Europe are, therefore, required to procure samples of goods which they believe to be marketable here and to send them to New York. With each sample there is to be transmitted the name of the manufacturer, the price, the delivery time, the terms, and style data. All of this information is assembled in convenient form for the use of buyers.

When the samples arrive in New York, the *stylist* takes charge of them and sets them up in the proper environment in the sample room where they are to be inspected by interested buyers. The latter discuss the merits of the product, prices, profit, etc., with the stylist. Requests for further information or suggestions as to change in style, make-up, etc., are transmitted to the foreign branch which submitted the sample. This function of the foreign (import) office of a large department store is decidedly important. The question might be asked:

> Why do all this work when buyers for various departments go abroad regularly and do a large amount of their purchasing while they are in the market?
>
> This statement is true to a small extent only; stop to consider the number of departments which find an outlet for foreign merchandise, and then figure out how many of those buyers go abroad. Also, take into consideration that a buyer's trip abroad is necessarily of short duration and that it is practically impossible to fully cover all the markets. Should those departments which are able to sell imported merchandise be deprived of information as to new sources just because the buyer does not go abroad? In those departments where a buyer goes abroad regularly, should the foreign markets be left untouched until the buyer goes abroad next year?[1]

The final part of the work of this particular foreign office relates to the distribution of style information received from foreign branches. These current data are of particular value to the buyers as they are in this way kept constantly informed on style trends.

By thus segregating the foreign (export or import) work of a manufacturing or merchandising concern, greater specialization and concentration may be achieved. When a large volume of the export or import business is transacted, the separate department may be a more efficient plan of operation. The foreign business of the company and the profits derived therefrom may be more accurately measured. Errors are not as likely to creep in as when the "built-in" type is employed. One export manager who was restrained from properly expanding his department because of the short-sightedness of conservative executives, declared that the errors in billing, packing, and documenting were appalling. Another export manager, on the other hand, was heartily in favor of his "built-in" department because he recognized no distinction between the domestic and the export functions and the work was being performed satisfactorily.

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[1] From address of E. Wedemann before the Import Managers' Group of the National Retail Dry Goods Convention, New York, Feb. 5, 1930.

Another feature of the separate department is its greater aggressiveness in the promotion and conduct of the foreign work. In the "built-in" type the export manager may be hindered by lack of proper coöperation on the part of other department heads. For an importing concern, particularly a retail store, this aggressiveness might indeed become an undesirable feature. Mr. Wedemann, in the address previously referred to, remarks significantly, " . . . for, after all, isn't the import office, like a selling department, trying to increase the volume of merchandise bought abroad?" Where personalities do not harmonize, this aggressiveness might cause difficulty or the imports might be unduly stressed.

Selling Company.—The second way in which the foreign work of a company may be entirely separated from domestic operations is to organize a distinct corporation to handle it. The parent concern then goes about its own affairs, billing the selling company in much the same manner as it does any other customer. This plan is followed by some of the large exporting manufacturers, but in the import trade it is negligible. Often the selling company takes the name of the parent concern, adding the word "export" to it, *e.g.*, General Motors Export Company, Crane Export Company, and many others.

The reasons for the adoption of this plan of operation are various. According to the American Manufacturers' Export Association, which made a study of this problem, there is first of all the concentration of executive control on responsible, experienced officials. In addition, all possibility of conflict between the domestic and the export interests or personnel are eliminated. These two factors should cause a more rapid development of the foreign business. Furthermore, one of the leading advantages of the separate selling company is the facility thereby provided of accurately determining the profit or the loss which the export business yields. Overhead which was charged against the entire business, but which was not properly attributable directly to the foreign sales, may be eliminated, showing possibly a greater profit on foreign business than was formerly realized.

Then, too, the export executives of the selling company possess greater power and responsibility than under any other plan. The business is supervised by the president and an entire staff of subordinate executives and clerks. The selling company, moreover, may have a tax advantage, especially when the income tax laws of foreign countries in which business is transacted consider the entire capital or profits of a company for the purpose of computing the tax.[2] A separate company which is in charge of all foreign business may avoid this complication. Even where the tax laws are intended only to reach the profits earned in the taxing country, there may be some difficulty in determining this ratio unless the business is operated as a separate entity. Two additional advantages, as pointed out by Mr. B. Olney Hough,[3] are also worthy of note. One is that the subsidiary selling company is in a better position to procure sales agencies for the products of other manufacturers. The other is that it may facilitate the dumping of goods abroad without violating foreign anti-dumping laws. The selling company makes no sales at home and consequently export price cuts are not so readily measurable abroad.

The entire foreign trade of a company, as stated before, is taken over and conducted by this subsidiary. It handles the credits, collections, advertising, shipping, accounting—the entire gamut of business operation. The selling company buys at prices agreed on with the parent concern, pays the latter for these purchases and endeavors to show a profit. The prices may be at cost or they may include a profit for the parent company. If they include a profit, the subsidiary is viewed as a professional middleman instead of a department in the business and an undue handicap is at once imposed upon it. The practices of different companies vary in this respect.

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[2] *See* Chapter XXXIII.

[3] B. Olney Hough, "The Export Divorcee," *Export Trade and Finance*, Jan. 28, 1928.

COMBINATION AND COÖPERATIVE METHODS

Instead of organizing one of the foregoing types of departments to handle its foreign business, a company may become party to some combination or coöperative arrangement. When a Webb-Pomerene coöperative association[4] is formed by a group of manufacturers or merchandising concerns, the association frequently acts for each member as a coöperative export department. This is not the case with all such associations, however. Coöperation is also practiced in importing.[5] When a manufacturer grants the foreign selling rights of his products to an export agent in the United States,[6] a form of export department is provided. Indeed, the contract which is drawn may state specifically that the export house is to act as the export department of the manufacturer. An arrangement of similar effect may be made with a combination export manager. In this case, the conduct of the foreign business is undertaken by an individual in contrast with a trading company. In these instances, the combination export manager and the manufacturers' export agent seek opportunities for taking over the export business of a number of American producers. They enter into contracts[7] in which the rights and duties of each party are set forth. The export agent ordinarily operates on a commission basis while the combination export manager often receives a monthly or annual retainer in addition to a commission. They employ the stationery and literature of the manufacturers they represent and to all intents a legitimate, individual export department is provided. Sales representatives in foreign countries are appointed and the export business of the principal or employer is conducted throughout. This is not true in every instance, however, as some combination export managers confine their efforts to the solicitation of orders from export houses in New York.

The shortcoming of this plan lies in the fact that a high degree of specialization is not possible; extensive rather than intensive efforts may result, due to the number of lines handled. If the lines are few in number, and if they are related, this feature might not be a hindrance, but most combination export managers are anxious to add new lines. They feel that they can do so to advantage because their organization is already set up and the larger clientele will yield greater compensation. For the manufacturer with a small foreign business, this plan offers an attraction because he may not be able to afford an export manager of his own. The combination export manager "provides the manufacturer with skilled service at a moderate cost, but he must be content to share it with others who employ the same agency. This very feature, however, may in some cases work beneficially, for if the combination manager is able to assemble a group of lines which interlock without competing, he can offer to the foreign buyer the convenience and economy of a combined shipment under one bill of lading which may very likely induce orders for each of his lines that otherwise might be deferred as too expensive if shipped by themselves."[8] For inland manufacturers, the combination export manager might be especially advantageous as he supervises at the seaboard all matters relating to their foreign shipments.

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[4] *See* Chapter XXII.

[5] *Ibid.*

[6] *See* Chapter XIII.

[7] *Ibid.*

THE EXPORT MANAGER

In foreign trade circles, the title of "export manager" refers to a person who ranges from a clerk to a high executive in the business. By and large the designation is accepted as meaning one who actually manages the export business of a company. It should be noted, however, that the foreign trade of a company may be conducted under the direct supervision of a vice president. When selling companies are organized, the entire personnel of an incorporated concern is devoted to foreign trade work. In importing there are relatively few import managers who are in any sense analagous to what is generally understood as an export manager.

The qualifications of the manager or of the executive who is in charge of the foreign trade work of a concern have been elaborately expounded in foreign trade literature. According to Mr. A. Schoonmaker, Export Manager, Bourne-Fuller Company, an export manager should be ". . . a man who has a broad and practical knowledge of international commerce gained from personal experience in the many important markets of the world; who is thoroughly familiar with banking methods and exchange; who can correspond and converse intelligently in at least the four principal commercial languages; whose knowledge of geography affords him a vivid picture of every prospective or established market; who not only knows intimately his own products but is an enthusiastic believer in their merits, and above all, is a one hundred per cent salesman.''[9] These qualifications are ideal, Mr. Schoonmaker admits, but he claims that many managers are approaching this standard through study and experience. Mr. B. Olney Hough, on the other hand, looks more to the man's ability to appreciate the point of view of foreigners with whom he deals than to his language and travel credentials.[10] Admitting the latter to be advantageous he does not believe they are essential. Furthermore, the export manager, the same as the head of any business department or organization, should be a capable executive. To obtain a man of these qualifications may not be a simple matter. A concern interested in engaging an export manager may endeavor to attract a capable man who is at present in the employ of another company. He may not necessarily be the export manager as there are well trained subordinates who might be highly satisfactory. With all of the foreign trade knowledge that such an individual would bring to the new employer, however, he might still lack an intimate insight into the policies of the company and often would be unfamiliar with the product as well.

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[8] A. Schoonmaker, in *Proceedings, Thirteenth National Foreign Trade Convention,* 1926, p. 355.

For those who consider the two latter features as of greatest importance, the best plan to pursue would be to train a man who is at present in their own employ. If he already possesses the policy and product qualifications and also gives evidence of potential development into a successful and efficient export manager, this plan should work out satisfactorily. A time element, however, militates against this arrangement, as the necessary training cannot be accomplished in a few weeks.

Location of the Department.—Considerable discussion has taken place during the past decade with respect to the places which compete for the location of the export department—the seaboard *vs.* the factory. Widespread consciousness of the question was not aroused until the large number of concerns which were thrown as novitiates into foreign trade during and after the War began to weigh the advantages of one location against the other. The most logical place seemed to be at the seaboard since the foreign trade activities and facilities of the country were concentrated there. What are some of the reasons for this presumption?

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[9] *Ibid.*, p. 354.

[10] B. Olney Hough, *The Export Executive*, Chap. III.

Walter F. Wyman, a recognized authority in this field, lists the following advantages of seaboard location:

1. Closer contact with export commission houses
2. Sales to visiting buyers
3. Personal contact with leading export managers
4. Close-at-hand sources of export information
5. Better opportunities to secure ocean freight-space
6. Active participation in many export organizations
7. More frequent voluntary suggestions for agents and customers
8. Securing better-trained export assistants and clerks
9. Daily conferences with experienced exporters, on abnormal conditions
10. Greater certainty of "Documents on same steamer as goods"
11. Last-moment correction of errors in shipments
12. Time-saving in correspondence and translations
13. Social entertainment of customers
14. Fullest use of service of export publications and organizations
15. Hearing and questioning the widest range of export authorities[11]

On the other hand, Mr. Wyman enumerates as advantages of factory location the following items:

1. Daily conferences with the highest executives of the enterprise
2. Personal and constant participation in the formation of the general policies of the enterprise
3. Decidedly lower overhead cost of the operation of the export department
4. Incentive to think individually
5. Better opportunity to supervise interior and exterior packing of export shipments
6. Daily conferences with advertising, credit, finance and traffic managers and factory superintendent
7. The immediate securing of proper preferences for export production and shipment
8. Wiser coördination of export and domestic selling
9. Greater elasticity of clerical force

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[11] Walter F. Wyman, *Export Merchandising*, (McGraw-Hill Book Co., 1922), pp. 47, 48.

10. The correct application of the "built-in" export department plan
11. The correct viewpoint from which to see the enterprise as a whole
12. The certainty of a correct mutual understanding of export instructions, policies and plans
13. The position to present the full export argument to executives at the most favorable moment
14. The correct business entertainment of visiting customers
15. The protection of personal interest:
    - (*a*) By being on the spot
    - (*b*) By the close friendship of associates, maintained by daily presence[12]

It is clear that a "built-in" department can be situated at no other place than at the factory. When separate departments or selling companies are organized, it becomes physically possible to move the export set-up to the seaboard. In those organizations in which the coöperative keynote of the "built-in" type is stressed, the factory location seems to be best. Some companies realize the principal advantages of both schemes by establishing an office at the seaboard and leaving the bulk of the department at the factory. In this case the manager makes frequent trips between the factory and the seaboard and during his absence capable assistants remain in charge.

Some of the seaboard advantages listed may be more ethereal than real. For example, interior points may be at no disadvantage in the dispatch and receipt of mail and might be even more favorably situated for correspondence with some sections of the world. Moreover, banks and insurance companies at interior points have expanded their services considerably. Freight forwarders at the seaboard are highly efficient in preparing and handling the documents that are necessary in foreign trade and in transferring cargoes. They can, at times, "obtain space on ships with greater facilities than an individual at the port can do."[13]

The solution of this problem depends upon the product sold as well as upon the policy that a particular company pursues. If, for example, staple lines are handled, and it appears to be advisable to maintain spot stocks for prompt shipment at seaboard, then the latter location is undoubtedly preferable. If, on the other hand, branded or trade-marked lines are sold and advantages of a different nature are called for, the factory location may be more desirable. When import departments are established by manufacturers, as noted before, they are primarily for the purpose of handling the shipping and customs house work at the port. Only the seaboard would suffice in this instance. If a merchandising company establishes an import department, there is an essential tie-up with the selling division heads, who often are the firm's buyers, and store location would undoubtedly be advisable. Each individual case must be decided upon its own merits.

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[12] *Ibid.*, pp. 48, 49.

[13] D. E. Delgado, in *Proceedings, Eighth National Foreign Trade Convention.*

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CHAPTER XIII

INDIRECT FOREIGN TRADING

International commerce is conducted in an indirect manner whenever the services of one or another type of professional wholesale middleman in the trader's country is employed. From the point of view of American trade, the middlemen involved are located in the United States. Thus, whether export or import trade is engaged in, the use of middlemen located in this country eliminates direct contact with foreign markets and sources of supply. It is this relationship which distinguishes direct from indirect trading.

American middlemen are among the direct successors of the nineteenth century merchant-shippers. In the early days of the sailing vessels, the merchant owned and operated his own boats for the conduct of his overseas business. Selling and buying were part and parcel with the shipping business. With the development of steam navigation and the consequent increase in the cost of an ocean-going vessel, the common carrier business became a separate function. Some of the merchant-shippers went into the shipping phase, others engaged in merchandising, while a few continue in both. The early commission houses had their origin in this setting.

The types of middlemen now generally included in the expression "indirect" are (1) export and/or import commission houses; (2) export and/or import merchants; (3) manufacturer's export agents; and (4) export or import brokers.

In practice, there may be no such clear line of demarcation between these various types as the grouping indicates. They may not exist in such precise entities. Each represents rather a distinctive function which must be understood in order to identify clearly the existing concerns.

According to the interests which they represent, and their mode of compensation, foreign trade middlemen may be distinguished in the following manner:

(1) The commission house acts in the interests of the buyer, receiving a commission for the service.

(2) The merchant acts in his own interests, depending upon a profit.

(3) The manufacturer's export agent acts in the interests of the American manufacturers whom he represents, receiving a commission for the service.

(4) Brokers may represent either buyer or seller working usually in the trade in staple articles which are often handled in organized commodity markets. Brokers receive a commission from the party they represent.

TYPES OF AMERICAN MIDDLEMEN

The Export and/or Import Commission House.—Acting strictly as a commission house, this middleman places orders with American manufacturers for the account of foreign buyers; while the import function calls for the placing of orders with foreign producers for the account of American clients.

The export commission house is the resident representative in the United States of foreign buyers. It receives orders or indents from these buyers and acts as the purchasing agent for them. In case standard goods are ordered, the work of the commission house consists merely in placing the order with the particular manufacturer who produces the articles, and in attending to all of the details of exporting. In many instances, however, the foreign buyer designates only in a general way the merchandise he wants, but the price limit he is willing to pay is often stated in these requests. It then becomes the duty of the commission house to "shop around" and procure the merchandise closest to the description forwarded by the buyer. Of course, the price limit, if indicated, acts as a restriction in this direction.

Essentially, then, the commission house acts for and represents the interests of foreign buyers. Many of these are regular customers of the commission house, but casual orders are also received.

It is not to be inferred that the commission house sits idly by and waits for business to come in. On the contrary, foreign agencies and branches are often established for the purpose of soliciting and more efficiently handling the orders which are placed in the United States for the account of the foreign buyer. The interests of the buyer are protected throughout. For this service a commission which varies from as little as 2½ per cent to 5 per cent or more is charged.

Although the export commission house is the pioneer in establishing foreign trade, commission buying is considered now as a function rather than as distinguishing a singular type of business house. It is estimated that these concerns handled 90 per cent of the exports of the United States about the middle of the previous century. But there has been a decline in the share of foreign trade conducted by American middlemen and the commission house as such has largely disappeared. The function, however, still remains and will be discussed at a later point.

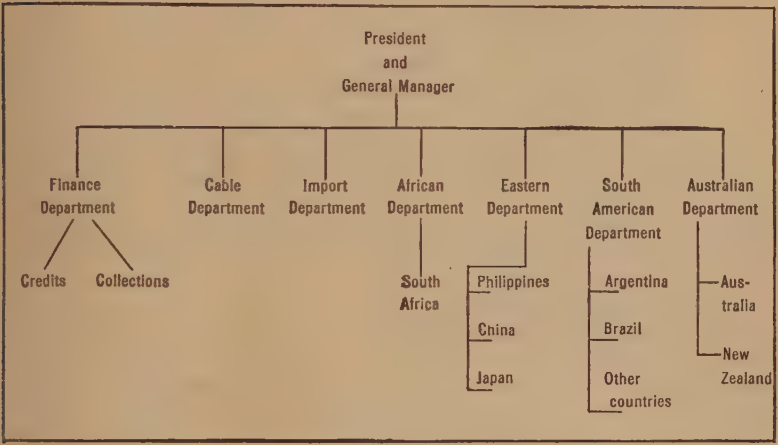
President and General Manager
Finance Department
Credits
Collections
Cable Department
Import Department
African Department
South Africa
Eastern Department
Philippines
China
Japan
South American Department
Argentina
Brazil
Other countries
Australian Department
Australia
New Zealand

CHART VIII. ORGANIZATION OF AN OLD-LINE COMMISSION HOUSE

The import commission house may take care of the interests of the American customer in just the same manner as described for the export commission house, although this function is not as prominent in the import as in the export trade. Raw and semimanufactured materials are so important in the former, and the trade in these lines is so large in the aggregate, that specialized brokers are more commonly employed.

Import commission houses in the United States, moreover, rarely work on a buying commission for the customer. They

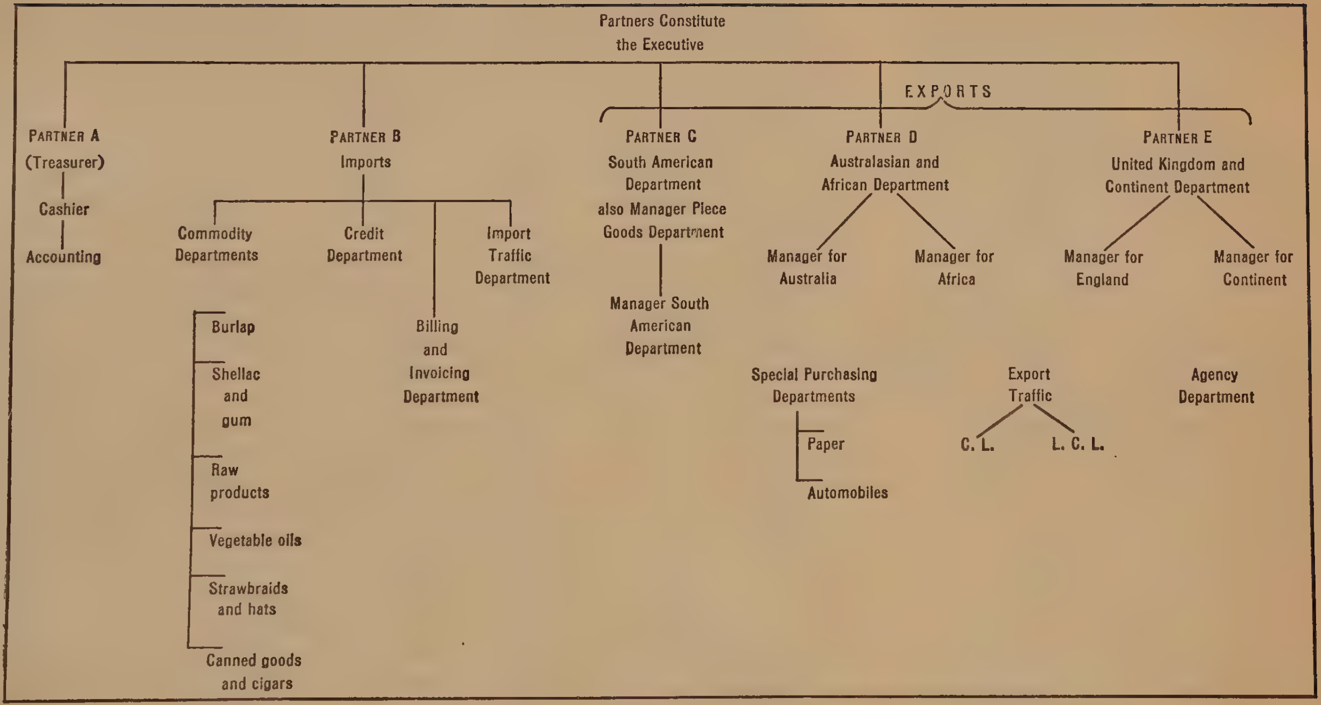
Partners Constitute the Executive
EXPORTS
PARTNER A
(Treasurer)
Cashier
Accounting
PARTNER B
Imports
Commodity Departments
Credit Department
Import Traffic Department
Billing and Invoicing Department
Burlap
Shellac and gum
Raw products
Vegetable oils
Strawbraids and hats
Canned goods and cigars
PARTNER C
South American Department also Manager Piece Goods Department
Manager South American Department
PARTNER D
Australasian and African Department
Manager for Australia
Manager for Africa
PARTNER E
United Kingdom and Continent Department
Manager for England
Manager for Continent
Special Purchasing Departments
Paper
Automobiles
Export Traffic
C. L.
L. C. L.
Agency Department

CHART IX. ORGANIZATION OF A LARGE EXPORT AND IMPORT COMMISSION HOUSE usually get more directly into the trade and depend upon a profit on their operations. Sometimes they receive consignments from foreign producers by whom they are paid a selling commission when the goods are disposed of. In this respect they are more akin to foreign agents or brokers for the interests which they represent.

In the department store trade, buying agents are sometimes found who place orders abroad for a group of stores, receiving a commission for so doing. They maintain show-rooms for the display of samples and take care of the interests of their clients.[1]

Quite often, a commission house combines exporting and importing. Chart VIII shows the organization of an old-line commission house, while Chart IX outlines the more complex forms in which this type of foreign trading agency is found to-day.

The Export and/or Import Merchant.—The merchant buys merchandise outright for his own account and disposes of it, if possible, at a profit. His transactions are essentially the same as those of a wholesaler or retailer. Commissions are not received; instead, a profit or loss is involved. The merchandise which is exported is usually selected by the merchant, although at times it may be ordered in advance by the buyer. His function is to sell goods, as distinguished from the commission house which essentially performs a buying function. Ordinarily stocks of merchandise are maintained at home or abroad in order that prompt deliveries may be made.

Except in case of companies which have developed a high degree of commodity specialization, it is becoming increasingly hazardous to carry stocks of merchandise to fill anticipated demands. Competition, price changes, and tariff revisions have combined in recent years to make this practice more speculative.

Import merchants are particularly important in the American import trade; they are found in many lines, but especially in food products such as tea and coffee, and in raw materials such as wool and silk. The business is so great in volume, and technical skill is so essential, that a high degree of commodity specialization has developed in these trades. Occasionally regional specialization is also found.

As in the case of the commission house, merchant trading exists to-day mainly as a function rather than as distinguishing a singular business concern. The merchant, too, has in many instances been merged in the modern process of specialization and consolidation. The import merchant, however, continues to operate as a distinct type of import agency.

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[1] For further discussion, *see* Chapter XXII.

The Manufacturer's Export Agent.—This agent is considered as an American middleman purely because he is located in this country. As a manufacturer's export agent he bears, to a large extent, the same relationship to his principal as does a foreign agent. The latter is, however, considered as a direct method of exporting.

The manufacturer's export agent enters into contract with a manufacturer whereby he undertakes to sell particular kinds of merchandise in foreign countries. The relationship is one of agency and the interests of the principal are fully represented by the agent. For this service, a sales commission is paid, as distinguished from a buying commission or a profit which is the basis of compensation for the commission house and the merchant, respectively.

A typical sales arrangement will indicate the terms of the relationship established between the manufacturer and the export agent. The essence of a foreign selling arrangement between X Y Z CORPORATION (X Y Z) and PARKER, PEEBLES & KNOX, INC. (P P & K), may be summarized as follows:

1. P P & K propose to act as the export department of X Y Z in the marketing abroad of their   and other products that may be developed by X Y Z. P P & K will actively push the sale of these products in foreign countries. P P & K will secure orders through their foreign agents, affiliated firms, and traveling representatives, and place these orders with X Y Z. P P & K will thereafter take delivery of the goods, arrange and pay for ocean freight, marine insurance, etc., attend to all consular matters, invoice buyers in whatever currency they may prefer, and where necessary carry on correspondence in the language preferred. P P & K will reimburse X Y Z for the f.o.b. value of their invoices, in U. S. Dollars, within thirty days, or upon such terms as may be agreed. P P & K will assume the credit risk of buyers, without recourse to X Y Z, reserving, however, the right to refuse any business not warranted by the credit standing of the buyer.

2. P P & K will carry on correspondence and sales in their own name as the Export Division of X Y Z, 44 Whitehall Street, New York.

3. X Y Z will supply P P & K with, or send direct to prospective

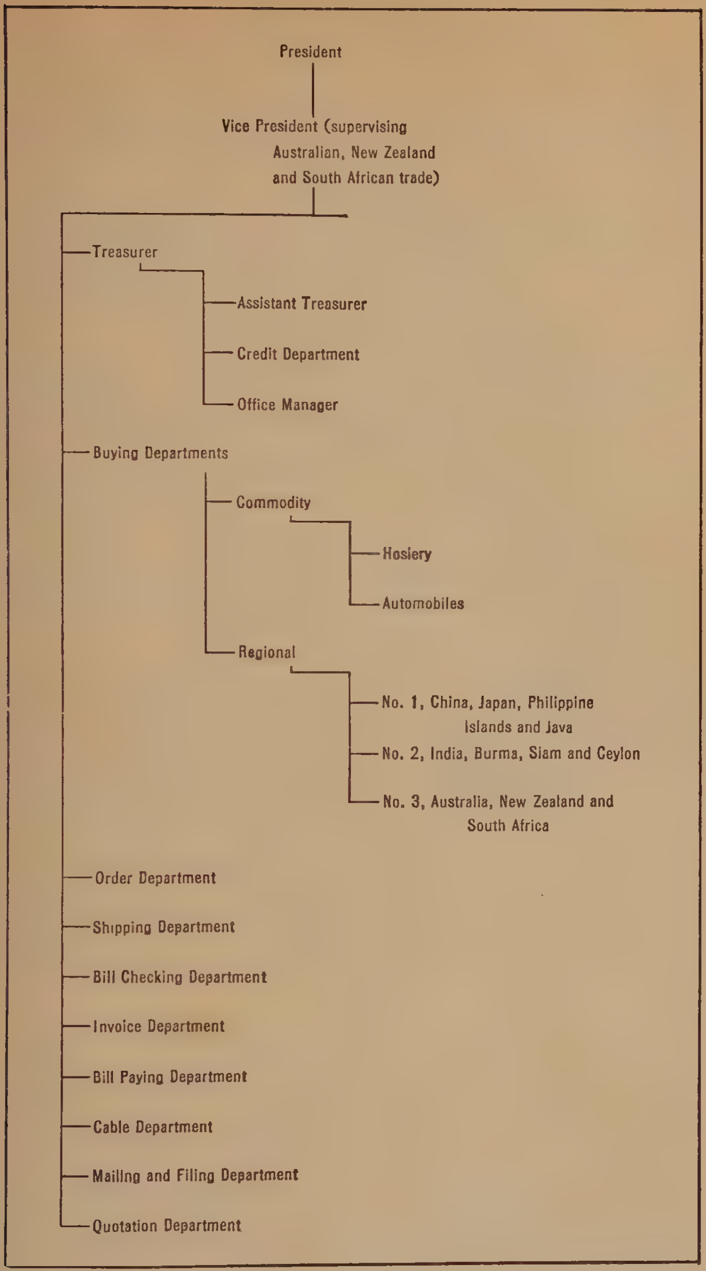
President
Vice President (supervising Australian, New Zealand and South African trade)
Treasurer
Assistant Treasurer
Credit Department
Office Manager
Buying Departments
Commodity
Hosiery
Automobiles
Regional
No. 1, China, Japan, Philippine Islands and Java
No. 2, India, Burma, Siam and Ceylon
No. 3, Australia, New Zealand and South Africa
Order Department
Shipping Department
Bill Checking Department
Invoice Department
Bill Paying Department
Cable Department
Mailing and Filing Department
Quotation Department

CHART X. ORGANIZATION OF MANUFACTURER'S EXPORT AGENT foreign distributors, suitable sales helps, such as type samples, descriptive matter and price lists, without charges, and will keep P P & K informed as to new products or lines, price changes, etc.

4. P P & K are to take over any business now being done and will continue to work with any existing agents, so long as in their judgment satisfactory results are being obtained. New orders or inquiries, applications for agencies, or other foreign correspondence received by X Y Z will be referred to P P & K for handling.

5. X Y Z undertake to fully stand back of all shipments made, and to take whatever measures may be necessary to adjust difficulties growing out of the delivery of defective material.

6. P P & K undertake, not only to carry on and endeavor to increase all business conducted through existing channels, but will make every effort to develop new business, customers and sales outlets in countries not now adequately covered, using their present organization of agents and customers and traveling representatives throughout the world, where possible, and appointing new agents wherever necessary.

7. Both X Y Z and P P & K will consult and coöperate fully together, lending mutual assistance in the furthering of foreign sales. It is the intent and spirit of this arrangement that P P & K operate essentially as a part X Y Z's sales organization.

The manufacturer's agent, by reason of the functions performed and the contractual obligations assumed, is organized in a manner somewhat different from the general trading house, discussed at a later point. The latter often enters into agency arrangements without materially changing its existing business organization.

A prominent agency concern is known by the self-styled term "export sales organization." This strikes the keynote of the difference between the manufacturer's export agent and the general export house. The organization of such a business is shown in Chart X.

When orders come in from foreign connections they are acknowledged and priced. After the credit department has approved the credit extension requested, the order is placed with the manufacturer who produces the goods for which the house possesses the foreign agency. When the factory accepts the order, the agent sends formal acceptance to the foreign customer, thus constituting a binding sales contract. The factory shipping date is definitely determined and if not adhered to, the order is subject to cancellation. The shipping department keeps in touch with the manufacturer to insure proper delivery.

When shipped, the merchandise is consigned to the agent, and the factory invoice is checked against the original order. Shipping documents for ocean carriage are then made out and the shipment is forwarded. The invoice department makes out the invoice on the basis of the bills sent by the manufacturer and the bill of lading with other necessary documents is sent through the bank. The manufacturer's bills are audited and passed upon, after which they are paid. The delivery of the merchandise is handled by foreign branches or agencies, unless direct shipment to the customer is made. At times a separate sales force may also be employed by the branch to sell different articles.

To perform such a business as this, both commodity and regional divisions are organized. Moreover, the quotation and sales promotion department distributes catalogues and circular letters, quotes prices, and in general stimulates the trade.

Export and Import Brokers.—These brokers, by definition, bring buyers and sellers together. They are more often found in the trade in staple articles, many of which are bought and sold in organized markets or exchanges. They are found in the grain, cotton, wool, sugar, coffee, and other trades. Trading in such a manner naturally confines their activities to one product. Moreover, merchandise which is consigned to a market, United States or foreign, is usually disposed of through brokers. This particular business is exceptionally important in the American import trade. The term broker is often applied in a broad manner, however, and concerns which are known as brokers may conduct business in several other ways.

THE EXPORT HOUSE

"Export (trading) house" is a term which to-day is more accurately descriptive of American foreign trade middlemen than are any of the individual delineations already mentioned, brokers excepted. Frequently an export house is loosely referred to as a "commission house," but this terminology is misleading because an export house does not conduct all of its business on the commission basis. In the sense here discussed, moreover, "export" refers to foreign trade as a whole rather than to just the outward movement of merchandise from the

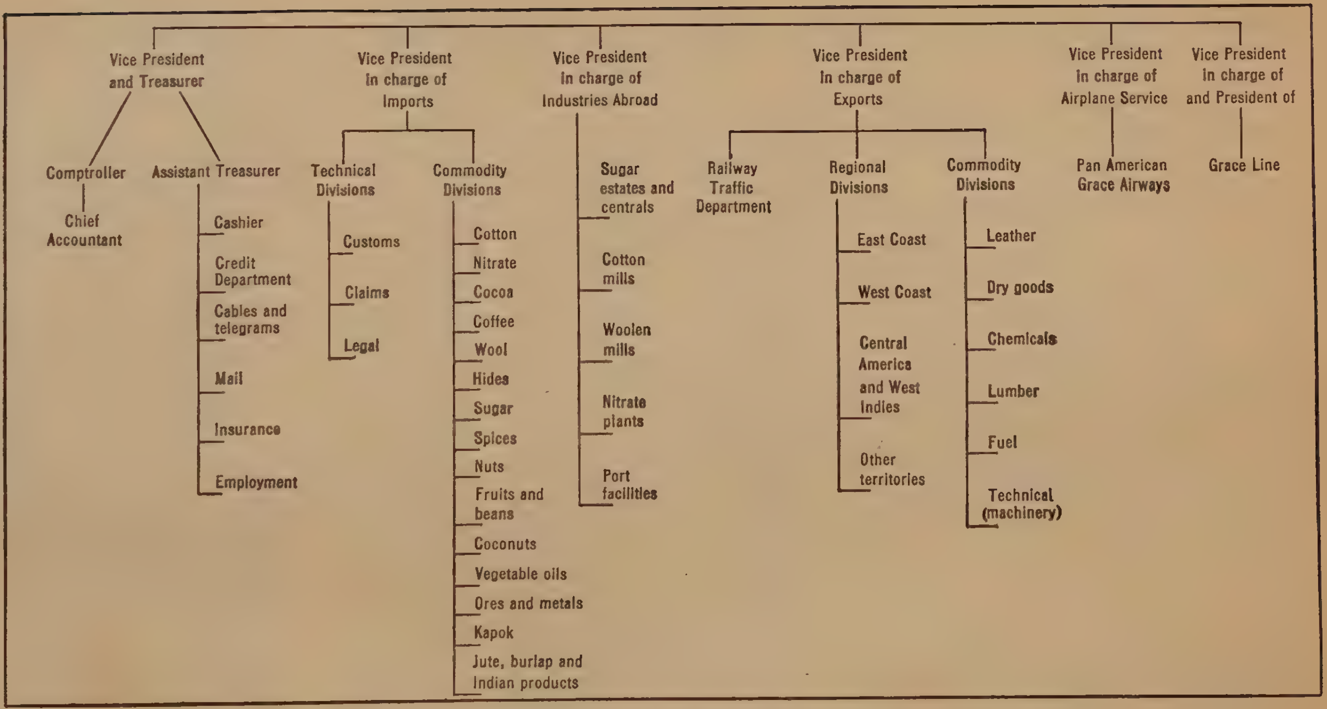
Vice President
and Treasurer
Comptroller
Chief
Accountant
Assistant Treasurer
Cashier
Credit
Department
Cables and
telegrams
Mail
Insurance
Employment
Vice President
in charge of
Imports
Technical
Divisions
Customs
Claims
Legal
Commodity
Divisions
Cotton
Nitrate
Cocoa
Coffee
Wool
Hides
Sugar
Spices
Nuts
Fruits and
beans
Coconuts
Vegetable oils
Ores and metals
Kapok
Jute, burlap and
Indian products
Vice President
in charge of
Industries Abroad
Sugar
estates and
centrals
Cotton
mills
Woolen
mills
Nitrate
plants
Port
facilities
Vice President
in charge of
Exports
Railway
Traffic
Department
Regional
Divisions
East Coast
West Coast
Central
America
and West
Indies
Other
territories
Commodity
Divisions
Leather
Dry goods
Chemicals
Lumber
Fuel
Technical
(machinery)
Vice President
in charge of
Airplane Service
Pan American
Grace Airways
Vice President
in charge of
and President of
Grace Line

CHART XI. ORGANIZATION OF A LARGE FOREIGN TRADING HOUSE

United States. Many so-called "export houses" engage also in the import trade.

As previously stated, there is, with the exception of brokers and import merchants, practically no independent existence of individual types of middlemen. A concern beginning as a commission house soon discovered that certain products of home manufacture offered a lucrative export sales possibility and it would then add a merchant business. With its established foreign connections, it may then be attracted by the agency proposition of some manufacturer and this function would also be added.

The import business comes as naturally as do these other functions. The house might have started as an importer and added the export business later. The two trades are complementary and together constitute foreign trade.

As branches and agencies are located abroad, the house becomes generally interested in the affairs of foreign countries. A market is noted in the United States for products available abroad and, with no appreciable increase in overhead, import lines are added. As closer intimacy with the foreign country develops, further import items are handled.

With export and import trade thus developed between the United States and a foreign country or wider geographical area, further ramifications may follow. A study of Chart XI will indicate the wide development in interests that has been experienced by one of America's largest trading houses. The import commodities for which separate divisions have been established under a vice president express something of the extensive undertakings of this concern.

As the contact becomes closer, industrial developments are engaged in abroad. This particular company owns and operates sugar estates and centrals, cotton mills, woolen mills, nitrate plants, and its own port facilities at the principal and most difficult foreign ports where it does business. Capping these developments, this concern has its own bank, owns and operates a line of steamships and lately has organized and is operating an air mail and passenger line to South America.

Such a house as this is known as an "export house" since it is impossible correctly to define its activities with any of the standard functional terms. It is all of these and more.

With the exception of the brokers and the import merchants, it is found to be generally impractical to confine activities exclusively to one type. The export merchant, moreover, does not always have any independent existence. The import commission house often acts for the seller and not the buyer and seldom works on commission at all. The manufacturer's export agent, even if he desires to handle only the lines for which he holds contracts, may be forced to conduct a commission business on casual orders placed by regular customers or by new concerns. This commission business is often unattractive and frequently entails a loss at the small percentage received as compensation. But if sales connections are to be maintained, it is necessary to accommodate customers to the greatest possible extent. As related by Mr. G. R. Parker, former president, American Exporters' and Importers' Association, a customer for pumping machinery may require a supply of mosquito netting. Having no foreign connection other than the agent who sold him the machinery, it is only natural to request the agent to also procure the netting or any one of numerous items which he needs.

The term "export (trading) house" has, therefore, come into existence as indicating a professional mercantile concern engaged in international business. Any or all of the separate types of middlemen may be embraced within the functions of this export house. Often, however, the house is predominantly one type.

Organization and Operation of Export Houses.—Practically all of the houses existing to-day are organized on a partnership basis even though a private corporation be formed properly to separate the several financial interests. Most of the general departments which are found in business concerns are likewise found in export houses. There is a financial department which may also handle credits, under a partner or a vice president. An accounting department, billing and invoicing department, cables, mail and shipping or traffic departments are also customary. Some companies do not have a central shipping department, each commodity or regional division performing its own forwarding. When imports are heavy, a customs department may be established. An agency department may be maintained to look into new export agency possibilities.

Many foreign trading houses have established foreign branches in the territories where they have their principal interests and affiliated companies may be organized to conduct the foreign end or to manage other enterprises in which the house is interested. In the absence of branches, the agency system is adopted to supply the necessary foreign representation.

Commodity and Regional Specialization.—Although specialization according to functions may be difficult, there is a decided tendency on the part of export and import houses to specialize in commodities and/or regions. Many have created special export commodity departments for textiles, hardware, foodstuffs, automotive products, machinery, etc., and import specialization knows no limit. At the head of each of these departments is an expert in the particular line. If the export house leans toward the commission business, the work of the department head is confined largely to buying. When indents are received from foreign customers, the buyer searches the domestic sources of supply for the best line of merchandise to fit into the requirements as transmitted by the foreign customer. Similarly, foreign products will be purchased at the request of an American client. When an import merchant business is conducted, the manager of each commodity department maintains contact abroad and disposes of the imported products to the American trade.

As a manufacturer's export agent, definitely affiliated by contract with certain producers, the work of the commodity divisions of the export house is essentially of a sales character. "These export trading houses all have departments specially organized and equipped for the sale of machinery and they operate their own direct branches abroad where stocks are carried and where the service so essential for successful machinery sales is adequately extended."[2]

Specialization in foreign regions is a natural development. Even the largest export houses do not attempt effectively to transact business with the entire world. Some devote their efforts to trade with one foreign country; while most of them specialize in some trade region, such as Latin America or some divisions of it, the Orient, Europe, Australia, or South Africa. A general and spasmodic business may at various times be carried on with most areas of the world, but there is usually one area in which definite trade relations are maintained.

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[2] E. M. Fisher, in *Proceedings, Fourteenth National Foreign Trade Convention,* 1927, p. 166.

Miscellaneous Activities of Export Houses.—An important part of the work of export and import houses consists of financing the trade. They are generally prepared to pay cash for the products which they buy and extend whatever credits are found necessary. In the import trade, moreover, the house may find it necessary to make advances to foreign producers of the commodities which they ship to the United States.

In the export trade, practically all export houses pay cash against documents in New York for the merchandise which they purchase from manufacturers, and then extend credit to the foreign customer. When acting as an agent, however, it is not unusual for the middleman to receive credit from the manufacturer. In any case the latter is relieved of the foreign credit problem. This constitutes one of the most highly respected risks in foreign trade and any manufacturer is glad to be relieved of the burden. Through its foreign connections, the export house is in a good position to determine credit ratings, and the higher interest rates which prevail in many foreign countries commend to merchants there the advisability of procuring advances at the attractive American rate of 6 per cent, or even 8 per cent. This function is, therefore, welcome to both exporters and importers.

Export houses usually perform their own freight forwarding service. Shipments made through them are handled in an expert manner without any inconvenience to either the exporter or the importer. All details are fully complied with and the entire responsibility of moving the shipment is assumed by the export house.

To the casual exporting manufacturer, this is a decided advantage, and to any exporter it is an attraction. Moreover, the importer receives price quotations which he can readily understand. These may be c.i.f. or even delivered costs and may be given in a currency which he fully comprehends. Again, the export house is in position to combine several smaller shipments into a larger unit and thereby economize on ocean freight charges. This service is particularly attractive to the foreign buyer who has submitted an indent covering a group of miscellaneous articles to be obtained from different sources of supply.

As stated above, an export house may maintain its own steamship line. This may give the export house a decided advantage in the market. At one time, for example, it was practically impossible to ship merchandise to the west coast of South America except through a New York trading establishment which by this means controlled the shipping routes to that market.

A few commission houses have become so strong financially as to acquire an interest in, or to own outright, some banking concern. This gives them an added facility for handling international financial transactions, to deal in foreign exchange and even to act as fiscal agent for foreign governments. Formerly, when export houses controlled a greater share of American foreign trade, and before the establishment of adequate overseas banking facilities, this service was more prominent than it is at present.

The more powerful export houses are sometimes engaged in a wide range of activities. These are not essential to their operation as international merchants, but are a natural outgrowth of interests and holdings which they have built up in the countries where they have been most active.

Criticism of Export Houses.—There has been no lack of criticism of export houses on the part of exporting manufacturers. As American overseas trade expanded rapidly during and since the War, manufacturers have taken a more active interest in foreign trade. While they were devoting their attention primarily to the domestic market, it was satisfactory enough to arrange with an export house to dispose of casual surplus production for them in foreign markets and also to fill any orders which the middleman might place for export sales. But with greater ambitions for the expansion of export business, criticism poured in on the so-called commission houses.

It is contended that they do not push sales with any aggressive sales effort. Handling, as they often do, numerous lines of merchandise, it was claimed that any particular line was "lost in the shuffle." Even those houses which exert an effort to specialize in certain lines, find it necessary, at times, if only as an accommodation to their foreign customers, to handle miscellaneous lines of trade.

In answer to this criticism, the export houses maintain that they are specializing to as great an extent as possible. This is not true of all of them, by any means, but certainly is true of some. Moreover, they assert that a manufacturer who pays a commission of 20 per cent to a foreign agent will allow the export house a mere 5 per cent and expect it to do the same amount of aggressive sales work.

The controversy in this connection appears to center upon the use of terms. If by "commission house" is meant a concern engaged in a straight commission house business, this criticism may be justly founded. Acting in this capacity, the middleman places orders with, rather than procures sales for, American manufacturers, and for a selling commission of 5 per cent, the middleman in attempting to obtain orders for the manufacturer cannot be expected to provide sales aggressiveness.

When, on the other hand, the export house acts as an export agent, the contention of the middleman can be well supported. It is impossible to push sales as an export agent for the compensation customarily allowed to the commission house. Many export houses, however, that have specialized in the agency type of operation are in a position to render adequate sales promotion for the compensation usually allowed to other agents. That this can be done is attested by the number of manufacturers who have satisfactory arrangements. To carry an excessive number of lines is likely, however, to cause a decrease in intensive sales effort in any one line, and it is also claimed that "outside of some exceptional cases, the intimate knowledge of the line and the enthusiasm for its merits dwindles in direct ratio to the number of intermediaries, and while the New York office of the commission house may catch the desired spirit, there may be considerable resistance to overcome in the foreign office causing a drop in energy at the very point where full potential is of the greatest importance."[3]

It is asserted by other manufacturers that if export houses possess foreign branches plus a special department for handling a particular product, they will be just as effective as any other sales agency.[4] Differences of opinion accordingly exist but they are essentially based upon incongruous interpretations of the expression "export house" or "commission house." Acting as a commission house in the broad sense and making sales for manufacturers as well as purchases for importers, in addition to the general run of commission business, the export house will continue to occupy an important position for some traders. This is entirely aside from the work of other export houses in connection with aggressive selling on an agency basis.

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[3] A. Schoonmaker, in *Proceedings, National Foreign Trade Convention,* 1926, pp. 357-358.

[4] Fisher, *op. cit.,* p. 164.

There are and probably will be importers in foreign countries who will depend on the commission house to procure for them needed merchandise from the United States. Many small importers are financially, as well as technically, unable to conduct their own importing. Moreover, there are larger foreign dealers who are required to handle a wide range of merchandise and who experience a slow turnover. These can obtain valuable service from a commission house which represents their interests in the United States. The additional services in connection with shipping and financing are sufficient to commend them to such foreign business establishments.

On the side of exports, it is likewise probable that many small as well as spasmodic exporters will always exist in this country. In either case, there is not sufficient time and even willingness to build up direct foreign sales connections and the middleman is the only alternative. As conditions change and these concerns develop into strong exporters, they may outgrow the commission house method of distribution, but other manufacturers will doubtless take their place.

When an experienced export house acts as an export agent, there is adequate evidence of its reliability and sufficiency when sales specialization is practiced. Many of the largest American manufacturers who possess their own export sales affiliations find a useful place for the export house. It is declared to be impossible for an exporter to have his own sales connections in every market of the world. Many out-of-the-way places are not capable of profitably supporting an agent or a branch in only one line of business. In such places the logical plan is to make arrangements with export houses which for the many lines of merchandise which they handle have found it profitable to establish satisfactory facilities. The wisdom of this plan is witnessed by the prominent American lines which in many parts of the world are handled by export houses, and it is noteworthy that in some sections of the earth where credit is an unknown factor and the market itself presents an extremely difficult problem, export houses are frequently relied upon. The many years of experience which the latter have gained in these difficult sections are not easily supplanted by the manufacturer.

After several conferences between export managers and export houses, a clearer understanding and a greater respect has been created. Mutual suspicion arising from the fear that the trade of one would be lost to the other, is being replaced with confidence and frankness. Export houses have complained that after having introduced manufacturers to foreign markets, the latter have, through the middleman's efforts, acquired a sufficient volume of business to induce them to break away from the commission house and engage in direct trade. In the natural evolution of business the middleman tends to be eliminated. But when the middleman changes his organization and plans to meet the altered conditions, as many have done by taking on agencies, and, as long as small and sometimes intermittent importers and exporting manufacturers exist, the export house may expect to fulfill a legitimate rôle and to retain an assured position in international commerce.

The remarks of Mr. R. A. Medina, Vice President of J. A. Medina Company of New York, and President of the American Exporters' and Importers' Association, indicate the general sphere of activity of the export house at present and in the future. Speaking on the subject, "Securing, Retaining, and Expanding Export Business," he made the following succinct statement:

> To my mind the essence of the subject in hand is combined in one word, "specialization." For some years we have become accustomed to an increasingly intensive specialization in the law, in medicine, banking and engineering, and in these professions, he who will not specialize or employ the services of specialists, falls by the wayside.
>
> For years many have specialized in export trade, but they have in a large measure so busied themselves with their individual problems that the industrial and business world has failed to notice the export specialist as such, and now that we inquire how to secure, retain and expand export business, we find that for decades if not centuries, the export merchant has existed as a specialist devoting his time, thought, energy and initiative to that one thing alone.
>
> This specialist has devoted himself to solving the problems of his profession in the same manner as the eminent surgeon or jurist. And American industry, desiring to operate in the foreign field, has

found it advantageous to retain such a specialist, either an individual, or an organized group of individuals, in the same manner as it retains specialists of other professions.

The export specialist has evolved with the times. He realizes that he is but a link in the chain, and therefore seeks the coöperation of the bank, steamship company, railroad, insurance company, manufacturer, and of government agencies, both here and abroad. He seeks their coöperation and gives his in return, and it is only through the coördination of all these forces that we can retain and expand the already large export business which this country enjoys.[5]

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[5] *Proceedings, National Foreign Trade Convention*, 1927, p. 150.

CHAPTER XIV

FOREIGN AGENTS[1]

A foreign agent is a concern located abroad, or in the outlying possessions of the United States, appointed to promote directly the sale of the exporter's products in some defined territory where he is granted exclusive or semiexclusive selling rights. A manufacturer or other American exporter of automobiles, for example, may select an import house in Bucharest to handle and sell its product throughout Roumania, in return for which the manufacturer agrees not to sell any automobiles in this territory through any other channels, with the possible exception of orders from governments or other large purchasers. Instead of selling to any import house or dealer desiring its product, the manufacturer confines his sales to the agent, who, in turn, however, may sell to any distributor or buyer within his territory. The foreign agent is to be distinguished from other so-called ''foreign agents'' such as advertising agents or forwarding agents located overseas. His primary function is the personal selling of his principal's goods, although he may also render many collateral services. While foreign agents are used by importers and import houses, as well as by manufacturing exporters and export houses, the discussion in this chapter relates particularly to their use by the latter. The principles involved are applicable as well in the import as in the export trade.

In the American import trade foreign agents are sometimes appointed for the purpose of placing orders for specified merchandise and to perform other functions in connection with buying. The practice is found in both raw material and finished lines. Sometimes an export and import house acts as agent for American importers in foreign markets. In the crude rubber trade, for example, Brazilian exporters may be agents for American principals and the same applies in connection with export houses, usually British, which handle plantation rubber in the Far East. These agents are empowered to purchase specified grades of rubber as advised by their principals. They keep the latter informed as to market conditions and trends, and attend to the shipments which ensue.

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[1] The discussion on foreign agents and foreign agency contracts is taken largely from Ralph F. Breyer, *Agents and Contracts in Export Trade* (Westbrook Publishing Co., 1925), and it was written for this volume by Professor Breyer.

Agents, called ''commissionaires,'' are sometimes employed by importers of finished products. In this case, where selection is paramount, order-placing is restricted generally to repeat-orders. They also provide market data, arrange itineraries and appointments for visiting buyers, and take care of shipments of merchandise. Buying agents usually operate on a commission basis although sometimes a salary and expense method may be employed.

Types.—Foreign agents can be classified in many ways and in considerable detail.[2] Classed according to selling rights there are exclusive agents and semiexclusive agents. An exclusive agent is one who has the sole rights in all sales of goods in the territory covered by the agency agreement. That is to say, the exporter agrees to sell all the goods covered by the agreement and destined for the territory through the agent, thus assuring the latter his commissions and/or discounts on all sales in the territory. Under such circumstances, even though the order for goods should come directly from a third party in the agent's territory without the latter's mediation or effort, or without being a result of the same, or if the order were placed by some American or other commission house and the goods were known by the exporter to be destined for the agent's territory, the agent would nevertheless receive a full or split commission on the order. Such a commission is paid an exclusive agent even on orders solicited in the agent's territory direct by the exporter where the agency agreement permits this.

However, certain agents do not have exclusive selling rights on all sales of goods in their territory. Their rights are modified in various respects. First, it is frequently found that sales to governments—in some cases only the foreign country's government, in other instances all governmental bodies, federal, state, and municipal, and their various departments—are reserved to the exporter, and the agent receives no commission, nor has he any claim for commission on such sales. Secondly, certain agents have no rights to commissions on sales by the exporter to a commission house, even though the goods be destined to the agent's markets. In this respect their exclusive selling rights may have been considerably abridged, depending upon the importance of commission-house selling in this market. The semiexclusive agent, furthermore, may have no claim to commissions where the exporter solicits direct large-quantity purchasers in the agent's territory and the state of competition compels the exporter to cut his price to such a point that he cannot afford to pay a commission to the agent on this business. Where an agent has no such exclusive sales rights with consequent protection of commissions or other form of profits he cannot, in the sense in which the term agent is here used, be considered as an agent at all. He then becomes a mere customer.

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[2] *See* Appendix I for a comprehensive classification of foreign agents.

At times the term "general agent" has been used in contradistinction to exclusive agent. As a matter of fact, the general agent is an exclusive agent of a peculiar type. Where an exclusive agent is appointed, the exporter agrees to appoint no other agents or sub-agents in that territory without the consent of the exclusive agent. If the agent is, however, a general agent, the exporter has the right to appoint any and as many other agents in that territory as he may choose. However, a split commission must be paid the general agent on all sales to or through the other agents in his territory. Thus it is seen that he has exclusive sales rights. The difference between the two types of agents lies in their control over the appointment of other agents in their territory by the exporter.

Nearly every foreign middleman, regardless of the position he may occupy in the chain of distribution, may have been appointed as an agent at one time or another, by one American exporter or another. They are all available as prospective foreign agents. As a result foreign agents may well be grouped according to trade groups. Accordingly we have, as export agents, houses which specialize in soliciting the exclusive rights of sale of certain American lines. These are commonly known as manufacturers' agents. They may in turn deal with large importers, wholesalers, firms doing both wholesale and retail business, and retailers. Seldom, if ever, do they deal directly with the consumer. There are also large importing houses that hold the representation for American lines. These houses are chiefly engaged in importing goods and distributing them to wholesalers and retailers. Frequently an agency is placed in the hands of a wholesaler whose activities correspond closely with the wholesaler of our domestic markets. Large retailers are also, at times, given the representation of American goods. In certain countries, particularly of South America, wholesale-retail houses act as agents for American exporters. Such houses, which sell to retailers and at the same time distribute to the consumer through retail shops of their own, seem to be more prevalent in many foreign countries than in the United States. At times a nontrading concern, such as a bank or engineering firm, has been appointed as agent by American manufacturers.

An important grouping of agents can be made on the basis of whether the goods are purchased by the agent himself or by some third party through the efforts of the agent. The distinction turns on the immediate sales destination of the goods. Those export agents who buy outright from the exporter the goods entering their territory are variously termed "merchant agents," "distributors," "customer agents," or "dealers." The exporter looks solely and immediately to the agent for the payment of the goods, and the agent, in turn, takes complete title to the goods. This, regardless of the fact that the goods may have been shipped direct from the exporter's factory or warehouse to some third party—the customer of the agent—in the agent's territory. It is quite evident that here the agent is buying and selling on his own account, and his remuneration as agent comes from the difference between his sales and his purchase price. Other agents solicit orders only for the account of the exporter, in which case the sale is made by the exporter direct to a third party, who takes immediate title to the goods. The agent is a mere go-between in the transaction. Such agents have been variously designated as "sales agents," "selling agents," "commission agents," "factors," and "brokers." This group of agents receive their recompense for services performed in the form of a straight salary, a straight commission, salary and commission, or, sometimes, a division of the profits. In the latter instance, the status of agent and exporter approaches that of a partnership rather than an agency agreement, depending upon the particulars of the relationship. Some agency agreements allow the agent to act both as a distributor and as a commission agent, in which case, for want of a better term, the agent may be termed a "mixed" agent.

At times the product is not sold at all but is merely leased to the agent, who in turn leases it to his customers. Here there is no sales destination as the title is never transferred either to the agent or his customer. Agents operating under such lease arrangements may well be called "lessee" agents.

Stocks of goods may or may not be carried by the agent. If he carries stocks, he is frequently termed a warehousing agent or a consignment agent. Although the distinction is not closely followed by exporters it might be well, for the sake of clarity, to call the agent a warehousing agent when he stocks goods on his own account. In those cases where the agent carries stocks of goods for account of the exporter, the title to the goods remaining in the exporter, the agent is properly termed a consignment agent, and this is the terminology largely used in export circles. Some agents carry no stock. They might, for want of a better term, be called "nonstock" agents.

Services.—The services rendered by foreign agents vary greatly. Much depends upon the type of product involved, and upon market conditions, the kind of concern chosen as agent and the attitude and situation of the manufacturer. Mechanical products, such as automobiles, cash registers, and typewriters require the agent to render extensive service in supplying spare parts and repairing, and well-equipped demonstration and display facilities. Tank and storage systems, light and power plants, must be installed by engineers sometimes sent direct from the plant of the manufacturer, but often supplied from the agent's staff. Where markets contain many buyers of poor credit standing, as in the Balkan States, or where their credit status cannot be satisfactorily ascertained, as is often true in India and China, the agent may guarantee credits. If the agent is a large import house he carries a larger distributive burden in larger stocks, extensive credits, local hauling and shipping than would a retail agent. Then, too, some exporters prefer to handle their advertising themselves, others desire the agent to do this, granting him an allowance for it, while still others divide the burden between the agents and themselves. Even for the same product and similar markets, services rendered by different agents will vary with their capital, organization, and policies.

There is one essential difference between the services given by foreign houses when acting as mere dealers and when they hold exclusive representation. In the latter instance they are ready to exert extraordinary efforts to sell the goods, since they are assured that the returns thereon will all accrue to them. Hence, they frequently instruct their salesmen to stress the product. They have, on occasion, established service departments. They use advertising more and are ready to carry larger and better-assorted stocks. In short, the exporter can normally expect better sales and supplementary services from concerns holding his exclusive agency than if such were not granted.

In view of the discussion of foreign middlemen to follow in the next chapter a mere enumeration of the services of foreign agents suffices here. Many, but seldom all, of the following functions are performed by a foreign agent:

1. The provision of a selling organization abroad
2. The rendering of "service"
3. Continuous representation on the ground
4. The supervision of other marketing media
5. Assistance in advertising the product
6. The provision of a ready-made avenue of approach to the market
7. Supplying market and credit information
8. Guaranteeing credits
9. Affording immediate deliveries by carrying stocks
10. Breaking down large shipments into small individual orders
11. By handling allied lines, sales resistance may be reduced
12. Assisting in properly grading prices
13. Aiding in rectifying mistakes, settling disputes, and clearing up misunderstandings
14. Affording the advantage of political contacts in selling the products
15. Handling invoicing and billing
16. Expediting entry of the goods and giving advice on customs regulations
17. Making and carrying through claims against carriers
18. Collecting accounts and handling funds
19. Taking notice from banks on protesting drafts
20. Giving information on legal technicalities of doing business in the territory
21. At times, agents manufacture the products

Selection of Foreign Agents.—Proper selection of foreign agents is the most critical problem involved in this method of distribution. Much of the burden of effective selling must necessarily rest upon them. If they fail to do their duty the manufacturer cannot possibly hope to obtain satisfactory distribution. Hence the vital importance attached to selecting the best houses.

From many of the sources of information mentioned in earlier chapters, especially the Bureau of Foreign and Domestic Commerce, the National Association of Manufacturers and the Philadelphia Commercial Museum, names of foreign concerns and information relating to them can be had. Having compiled a list of prospective agents from such sources, along with such information as they have on these agents, the manufacturer should proceed to cull the list. By a gradual process of elimination there should remain two or three names of highly desirable foreign houses. It may be that some of the parties furnishing the names of agents have already discarded certain of them because of the fact that the data they had on such names showed that they were obviously unfit for the representation of the manufacturer's product. This is usually done by the Division of Commercial Intelligence of the Bureau of Foreign and Domestic Commerce, which selects from its files three or four of the most promising names and submits only these to the manufacturer. However, most of the general sources of information on foreign agents do not make any preliminary refinement of the lists although they stand ready to assist manufacturers in doing so. From what has been already said of the Foreign Trade Bureau of the Philadelphia Commercial Museum it can be seen that it is particularly active in this respect.

Some lists have, however, been subjected to little or no preliminary refinement. Even where this has been attempted, the list is likely to contain several obviously undesirable houses; this is true because the party furnishing the data cannot hope to understand all the aspects of the manufacturer's agency problems. It may be that they do not have sufficient capital to handle the line, or perhaps they are in a trade group, such as the retail group, which would close two-thirds of the trade to their approach, or the prospect may already be handling a competitive line of goods, or lack certain special services required by the manufacturer, such as manufacturing or guaranteeing accounts.

The remaining possibilities must then be studied carefully and eliminated or put into a deferred class, one by one, as the analysis of the data continues. The final refinement of the list should be done with the assistance of the credit manager, or export credit manager, if there be one. While the export manager should be able to judge the selling capacities and limitations of the names before him, he is not trained in the study of the financial conditions of concerns. This is the credit man's specialty.

The main factors to be considered in sifting a list of agents are the agent's character, his ability, his financial status, his reputation and standing with the trade, the lines he handles, his sales policy, where he is located, what trade group he belongs to, his nationality, and his political influence. All of these considerations must not only be analyzed from the point of view of the present but also of the future. Admittedly, this is difficult, and in many cases the data on the agent are too meager to permit of any very definite conclusions as to what the future is likely to bring forth in these respects. However, any information on the agent's past which might indicate an unfavorable future should be followed up by further investigation.

The character of the agent is a primary consideration in selecting an agent. The relationship of manufacturer to agent is in the last analysis one of "trust." The agent's inherent capacity, his favorable trade standing, and every other good qualification he has is brought to naught where an agent chooses to tie up a line, or offer rebates, or accept two commissions, or speculate with the manufacturer's goods at the latter's expense, or misappropriate advertising and other funds and allowances; or where he simply refuses to live up to the spirit of the agreement by failing to apply his initiative and intelligence.

The essential purpose of entering foreign markets is to increase profits. The manufacturer cannot hope to accomplish this without an agent who is competent to prosecute sales for him. The agent must have a thorough knowledge of his market. He must have selling capacity. That is to say, he must have the requisite sales organization to handle the product. This may require branch offices at certain points in the territory. Some commodities call for expert technicians on the staff of the agent. The agent may need to have extensive service facilities, or, at least, be able to create and maintain such. He may be compelled to provide special warehouse and storage facilities. It may be necessary for him to be able to provide for demonstration of the goods, putting up window displays, arranging for advertising campaigns, or house-to-house canvassing and distribution of samples. The product may require of the agent a separate department to specialize in handling this one commodity. Where intensive selling of year-around goods is necessary, the agent must have a staff which is able to cover outlying regions at very frequent intervals throughout the year.

The financial status of the agent should be carefully scrutinized when sifting the agency possibilities. Unless the agent is in good financial condition, and bids fair to remain so, he is a very uncertain link in the foreign distribution chain. Insolvency or bankruptcy may wipe him out of existence at any time. Where the agent is expected to purchase from the manufacturer and particularly where, in such instances, the individual units represent a considerable investment and must be kept in stock in fair quantities, the financial resources of the agent must be considerable. Otherwise, he cannot adequately handle the line. Furthermore, here the accounts of the manufacturer are all with the agent. It concentrates the former's risks in one party and thus increases the risk. Not only must the agent have adequate financial resources for normal times, but his ability to meet the problems of business depression and financial crises must also be considered.

The personal element—the human equation—figures largely in foreign business as well as in domestic trade. The manufacturer should analyze his list of agents with respect to their trade standing and contacts. Certain houses are especially well thought of by the trade. They have, through past services, built up a valuable good-will amongst their clientele. Their reputation may stand far and away above their nearest competitor's. On the other hand, some foreign houses are not regarded with favor by the market. It may be a new house subject to the trade prejudice against the parvenu. Perhaps the trade has found that the house indulges in sharp business practices and is quick to take advantage of its clientele for the sake of immediate profit. The house may have a good reputation for second quality or cheap products, but have no standing at all as a "quality" house. Much also depends upon the social status of the owners of the foreign house. Should they be *persona non grata* socially this is bound to weaken their standing with certain of the trade.

Due consideration should also be given to the lines already being handled by the prospective agents. As a rule, it is undesirable to appoint an agent who handles a competitive product. Some foreign houses have, moreover, overextended themselves by taking on too many, or too great a variety of lines. As a result, they are unable to give any one of the representations its proper attention. Such agents should be avoided. Certain foreign houses hold only a reasonable number of agencies, and are in a position to take care of additional ones. They, at the same time, however, concentrate on a certain group of products, and the remaining lines are only of secondary importance to them. Should the manufacturer's product be among this latter group, he would do well to look elsewhere for an agent. Other foreign concerns handle only a small group of related products, or, perhaps, but one line of goods. Such specialization in selling is often highly desirable and makes for more effective agency representation. This is especially true in mechanical lines and lines requiring intensive salesmanship. Some products, as farm machinery, cannot be easily introduced into foreign markets unless the agent is handling other related lines as well.

The manufacturer has, no doubt, built up certain traditions regarding the selling of his products. He has certain distribution "beliefs." Is the prospective agent reported as being highly progressive—a "live-wire" organization? Or is it termed a conservative house? Is it a young or an old concern? What does the data show about the personality of the heads of the firm? Do they make use of advertising, novel sales methods, etc.? These and many other pertinent statements may give some clew to the sales temperament of the agent. If it is in harmony with that of the manufacturer there will be little danger of splitting upon fundamental issues.

The location of the agent is a factor of importance in sifting the agency list. It is desirable that he be so located that he can readily render assistance in receiving shipments from the United States. Location at certain points may incur the necessity of transshipment of the goods. He should be situated at a point which has the most adequate transportation facilities with the remainder of the territory. In the case of Colombia, for instance, exporters of cotton textiles have found that an agent located at Barranquilla cannot adequately cover the entire country due to poor transportation and communication facilities, and hence additional agents have been placed at Medellin, Bogotá, Cali, Cucuta, and Manizales. At times certain cities are the chief trade centers for the commodity in question and buyers regularly come to these markets from outlying regions to do their buying. In such case, he should preferably be located in these cities. Location at a free port, such as Hamburg, may be advantageous. The geographical characteristics of the country may limit absolutely the territory which can be handled from any certain point. The agent's location, thus, in part determines the size of the territory that may with reason be granted him. Where retail houses are used as agents, it may be highly important that they be located within a certain very restricted area of a city. This is true of London, with its well-defined retail areas.

As is the case within the United States, foreign distribution systems exhibit more or less definite trade cleavages between the various middlemen involved. There is usually a wholesale middleman group and a retail middleman group. In certain countries hybrid wholesale-retail houses are prevalent. In many other countries pure importing houses exist as a distinct and separate group. This makes it imperative for the manufacturer to determine the trade group to which the agent actually belongs. This is not easy to determine because foreign houses at times hold themselves out as being importers or wholesalers where, as a matter of fact, the trade does not recognize them as such. Should the agency be granted to a retail house, other retailers and all wholesalers may refuse to deal with the agent because they feel they are entitled to the same prices granted the agent, or better, according as they are retailers or wholesalers. The same principle holds true where a wholesale firm is given the representation. Other wholesalers are loath to buy of or through them.

The nationality of the agent must likewise be considered. This factor bears upon the problem of adequate representation in two ways: first, the attitude of the agent toward the manufacturer;

and, secondly, the attitude of the trade toward the agent. The fact that English, German, French, or Dutch houses have proven satisfactory to exporters of those respective countries does not necessarily guarantee the American manufacturer adequate representation. There are many exporters who sincerely believe that there is little hope of getting such foreign houses to stand behind American goods and push them with all their energy and skill. They believe that their national sympathies are bound to cause them to give only half-hearted support to American manufacturers, or, at least, that the danger of this is so great as to make it not worth while risking an agency with them. But it is certainly true that there are numerous instances where American manufacturers are receiving the best representation from foreign houses. The fact that a house is English or German is no more conclusive proof of its unfitness for the agency than is the fact that a house is American conclusive proof that it is fit for the agency. Much depends upon the individual house. However, it is, no doubt, advisable to check up the records of foreign houses thoroughly in this matter.

With regard to the second part of the problem, it is maintained that in certain markets and lines the trade is prejudiced against agents of a third country and will not buy from them when they can get what they want from other houses, whether native or American. The reality of such a situation should be definitely determined.

Where government business forms an important part of sales the political influence of the house becomes an important element in selecting the agent.

In certain instances the data at hand on the agent are very favorable but are so meager as to make it impossible to get a satisfactory idea of the agent. It is well to put these names apart for the time being and endeavor later on to obtain such additional information as may be desired.

From what has been said above it should be quite apparent that the importance of any one of the factors mentioned will vary according to the peculiar circumstances of the manufacturer, the nature of the product, and the complexion of the market.

Final Selection.—It may well be that this refining process will narrow the choice down to one house. At times some brother exporter, or a bank, or one of the sources of information mentioned above, may recommend at the start one certain foreign house which the manufacturer finds at once to be a very desirable one, in which case much of the trouble of sifting through lists may be avoided. However, no prospect should be appointed as agent where the information regarding him is merely neutral. It should be of a positive, highly favorable nature. In any case, where the one best house is already located the manufacturer can proceeed to approach it with his proposition. Where two or three houses of very similar qualifications remain after the elimination process, all possible additional data on them should be obtained. The information which he already has about them should be checked by other independent sources of information. This will usually give one of the few remaining houses an advantage over all the others. The manufacturer is then ready to approach this foreign house with his agency proposition. Should he fail to sign up this house he can turn to the next best house.

Once a foreign concern is selected as the best prospect for the agency the proposition must be laid before it. While there are many concerns in foreign lands soliciting agencies for American products these are likely to be the less desirable ones. Ordinarily the better the foreign house the more they are sought as representatives and the more difficult it is to get them to act as such for your line. They are in a position to choose from many companies in countries offering agencies. Therefore it becomes necessary to convince them of the desirability of handling the agency. However, a thorough discussion of the agency proposition is desirable with even those foreign houses who solicit or readily accept the representation. The proposition may be put before the prospective agency by mail or in person. The latter is preferable, particularly when an officer or an export manager of the American concern or one of its salesmen is available. The proposition should first be carefully examined, however, to be sure that it contains a proper balance of compensations for both parties. Being certain of the fairness of the offer, the exporter should proceed to convince the agent of the merits of his organization, products, services, and policies. Here the manufacturer's financial strength, his ability to export well, his enthusiasm for export markets, his success in other markets, the basic qualities of his product, its attractive packaging, the superior merchandising methods used, dealer coöperatives included and the liberality of the agency terms, such as the amount of commissions or margins allowed, price protection, sales quotas, etc., can be adduced. Care should be taken, however, not to oversell the agency proposition.

In some countries the houses which represent foreign firms are bound together by association. As in Cuba, this action is caused by the provisions of law whereby commission merchants or "comisionistas" are granted, as a group, certain special privileges. The Association of Representatives of Foreign Firms, in Habana, "exists, primarily, for the purpose of caring for and watching over the credit and standing of its members and fostering their welfare in general. Its disciplinary powers are indirect but none the less effective. To be admitted into the association, it is necessary to have a clean record or to be able to justify any doubtful act committed prior to the application for membership, and any member may be suspended or expelled for failure to comply with the standard of honest commercial practice set by the association."[3]

Desirability of the Agency Method.—Where the possibilities of the market give promise of only a moderate volume of sales for some time to come, the foreign agency method is very effective. The agent handles a number of lines and only moderate sales of each still enable him to earn substantial total commissions. Such a condition is likely to eliminate the use of more direct methods of representation since the cost would be excessive. Where repair service and spare parts must always be at hand, or where the supervision of these must be close and continuous, the foreign agent is surely more effective than the use of salesmen making only periodic visits to the country. Mail-order methods are impossible here. When the product requires constant intensive sales efforts, and, especially, when this condition is combined with the necessity of selling small units through many dealers, the foreign-agent method is found effective. At the same time, purely mail-selling efforts can never attain the degree of intensity of sales efforts required by the goods.

The foreign agent's intimate knowledge of local sources of credit information, his access to certain sources which the manufacturer's branch house or subsidiary might not be able to reach, and his personal knowledge of the past practices of dealers make him probably the most effective local medium for this purpose.

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[3] *Trading under the Laws of Cuba*, Trade Information Bulletin 343, Bureau of Foreign and Domestic Commerce, p. 18.

When foreign governments are large buyers of the product, the laws governing bidding on such business may make it imperative to use a foreign agent who is a resident or citizen of that country. His political influence, in any event, can be used to advantage in getting such business—and this by no means implies unscrupulous business practice. There is a proper as well as an improper use of such connections. Even where the foreign law does not make any such requirements as above, local administrative measures and the practice of local authorities in countries outside the United States and Great Britain make the resident agent almost absolutely necessary in effectively soliciting government business. Where the trade is particularly hostile to the establishment of branch houses or subsidiaries of American manufacturers in their country, the foreign agency method affords a way to avoid this early antagonism. Much also depends upon whether the manufacturer can obtain a foreign agent of the caliber he desires.

It should not, however, be thought that the use of the various methods of foreign distribution by the manufacturer are mutually exclusive. One market may require the foreign agency method, another may best be exploited through a branch house, whereas the laws of a third country and its trade conditions may call for the organization of a subsidiary company by the manufacturer. The proximity of some other market may dictate the use of salesmen sent out from the United States periodically. The American commission houses may be so strongly intrenched in some fifth country that the manufacturer finds it best to use such a house as its agent. Thus, we could well have five distinctly different systems of distribution in use by the one manufacturer. Furthermore, even in the same country or market the manufacturer may use a branch house and also appoint foreign agents. Subsidiary companies may also be used in conjunction with foreign agents in the same market. Salesmen also travel direct from the United States to markets where foreign agents are used, as well as where branch houses are established. It is, in the final analysis, a question of fitting the distribution machinery to the needs of the market. This problem may involve all sorts of combinations and compromises in methods.

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CHAPTER XV

AGENCY CONTRACTS AND FOREIGN MIDDLEMEN[1]

The terms of the agency as finally agreed upon constitute the agency contract. Ordinarily they are reduced to writing in order to make a permanent record of the rights, duties, and liabilities of the exporter and his agent. Some exporters, more particularly the older ones who have agency arrangements of long standing, have not used what would properly be termed a written contract but have merely confirmed the grant of the agency by letter stating a few particulars such as territory and commissions or discounts. Other agency problems were decided mutually as they arose. And yet such exporters have enjoyed unsurpassed success with their agents. But now it is considered better practice to set up a written contract covering all of the important phases of the agency relationship. Sometimes a formal contract with legal terminology is used, but an informal presentation of terms, often on the exporter's letterhead, is much more frequent. Casting the terms of the agency into the form of a complete and clearly written document helps to avoid misunderstandings and consequent ill-feeling later on; constitutes better legal protection to the exporter where large credits are extended to the agent, and where the rights of third parties might be involved; and is often helpful and necessary to the agent in obtaining foreign government business or getting credit from banks.

It is impossible to outline all the essential provisions that should be placed in agency contracts as this will vary radically with the manufacturer, the product, the agent, and the market. There are, however, certain basic provisions which are found, in one form or another, in almost all well-drawn contracts. Some of these represent concessions granted and obligations assumed by the manufacturer, others relate to concessions granted and obligations assumed by the agent, and still a third group relate to mutual rights and obligations. Regarding the provisions included in the first class there would be the enabling clause, the territory clause, the duration clause, the compensation clause, and the advertising clause. The contract should fully describe the nature of the agency granted the agent. Is it in every respect an exclusive agency? May the agent carry competing lines? Is he to work purely as a commission agent or as a merchant agent, or both? These and other matters go to make up the fundamental character of the representation granted the agent. The territory granted the agent must also be specified in the agreement. Care should be taken to see that this is accurately done. The duration of the grant of agency should be long enough to allow a thorough test of the market and of the desirability of the agency connection. The agent's compensation should be definitely stated. It may be in the form of salary, commissions, or price concessions (discounts) or combinations of these. Where the manufacturer is ready to carry some of the advertising burden, a definite statement of what he will do should be included. An example of clauses taken from an actual agency contract, and covering the above matters, is given here. They show how a certain manufacturer has provided in his contract for such matters:

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[1] This chapter, with the exception of certain sections dealing with importing, was written by Ralph F. Breyer, Ph.D.

In consideration of the granting by "X" Manufacturing Company of the exclusive agency for sales of its (*products*) in (*territory*), "Y" Importing Company accept this agency, guaranteeing every reasonable effort to promote mutual interests:

THE MANUFACTURERS AGREE:

1. To sell their (*products*) to the Agent at a discount of fifteen per cent from their Export Prices; these prices being f.o.b. steamer, Boston or New York, in lots amounting to not less than $100.00 net, and subject to terms of ——— quoted and payable in United States Gold.
2. Not to sell to any other firm in the above mentioned territory without the expressed permission of the Agent, and to refer all such orders and inquiries to the Agent for attention.
3. To credit the Agent with a commission of fifteen per cent on the net amount of all orders accepted by them from the Agent to be shipped and invoiced by the Manufacturers direct to the trade: this commission to be remitted to the agent as soon as payments are received by the Manufacturers.
4. To coöperate in every possible way in the developing of business in their products in the above mentioned territory, and to furnish

free of charge such advertising matter as they may consider necessary. It is agreed that all advertising matter is to be delivered to f.o.b. point as specified in Paragraph 1, Page 1, of the agreement, and that the manufacturer shall assume no charge beyond this f.o.b. point.

5. To allow the Agent to solicit orders for their products in the above mentioned territory on the basis of terms specified in Paragraph 1, Page 1, of this agreement, it being clearly understood that the Manufacturers are in all cases to be sole judges of credits, and such orders are to be taken subject to the acceptance of the Manufacturer.

6. To institute an introductory advertising campaign for (*product*) immediately upon the distribution of stocks of (*product*) at important jobbing points throughout the above mentioned territory, as provided for in Paragraph 5a, Page 2 of this agreement, this introductory advertising campaign to extend during three spring months of the First Contract Year, and to be followed by similar advertising at intervals and to the extent which they may consider necessary.

The basic provisions covering the agent's concessions and obligations would include a competitive-goods clause, an efforts clause, and an advertising clause. If the agent is to be prohibited from handling any competitive line, this should be inserted in the contract in so many words. Where he is already handling a competitive line, he should be given reasonable time to work such stocks as he may have off his hands. The efforts clause should state that the agent agrees to use his best efforts to sell the goods and may perhaps even definitely prescribe certain of these. Whatever advertising activities and expenses the agent agrees to assume are also a basic part of every contract. As illustrative of these provisions the following clauses are quoted from an American manufacturer's export agency contract:

THE DEALER AGREES:

To use every effort to sell the greatest possible number of (*products*) under this agreement, and to prosecute the business diligently in all reasonable ways; to devote the necessary time to promoting the business and interests of the Company to the satisfaction of the Company.

To employ, instruct and maintain an adequate staff of salesmen and other selling representation to sell ("X" Manufacturing Company's) (*products*) and devices in quantities consistent with the possibilities of the territory, and to maintain an (———) training school where necessary and other means of carrying out the Company's policy of assisting the customer to obtain the maximum benefit through the use of the (*products*).

> To expend each year in advertising the Company's product, in a manner agreeing with the Company's advertising policy and plans, a sum not less than (———) per centum (———) of the total export list price of the ("X" Manufacturing Company's) (*products*) sold within Dealer's territory during the year immediately preceding.

Certain mutual concessions and obligations form a basic part of every contract. These relate to the cancellation of the contract. They should make clear just what circumstances shall enable either party to cancel the contract, the exact nature of the notice of cancellation that must be given, and how and when cancellation is to become effective. The following clause taken from an export agency contract is to point:

> It is understood that either party shall have the privilege of cancelling this entire agreement by giving to the other six months' previous notice in writing, and that during such six months all the terms of this agreement are to be in force.

Along with such basic provisions one frequently finds most of the following: a direct sales clause, an indirect sales clause, an extraterritorial sales clause, a quota clause, a stock clause, a price-change clause, an Acts-of-God clause, an approval-of-order clause, an assignability clause, and a jurisdiction clause. The direct sales clause should state the conditions, if any, under which the manufacturer may solicit orders direct from the trade of the agent's territory and what rights and compensation the agent is to have under such circumstances. It may be highly desirable that the manufacturer retain the right to solicit orders and sell direct to the trade. The following is an example of such a clause:

> It is mutually agreed that the Corporation shall have the right at any time during the existence of this Agreement to sell direct to any person or corporation or municipality in such District, any and all models of ("X" Manufacturing Company) Motor Vehicles handled or dealt in by the Corporation, provided, however, that upon any such models so sold direct, the Distributor shall be paid commission equal to ten per cent of the United States list price, f.o.b. (*interior point*) in force at time of sale.
>
> The Corporation reserves the right to sell ("X" Manufacturing Company) Motor Vehicles direct to the Government of any country, except municipal governments, if such Government elects to place such orders direct with the Corporation, rather than place the orders through a Distributor, in which event the Distributor shall not be entitled to receive any discount or commission on such sales.

The indirect sales clause should set forth the protection which the manufacturer agrees to give the agent on sales made by the former to commission houses and other middlemen shipping his products into the agent's territory. An exclusive agency implies exclusive selling rights in the territory of the agent. He, therefore, usually wants as much protection as possible from sales made in his territory through such third parties. This is only reasonable. One manufacturer has the following clause in his contract relating to this situation:

> The Company in consideration of the Agent's aforesaid services agrees to pay to said agent a commission of Ten (10) Per Cent on the amount of all orders taken and forwarded by him and accepted and filled by the Company and paid for by the Customer, and a commission of Five (5) Per Cent on the amount when paid of all other orders received through export houses or other channels for delivery in the territory of (*territory*), so long as this agreement shall remain in force, when shipping directions are furnished.

The extraterritorial sales clause, frequently found in agency contracts, governs the agent's selling the manufacturer's product outside the agent's territory. With certain lines of goods this raises some very fine points of distinction. The clause is illustrated by the following:

> The party of the second part agrees not to sell or offer for sale any apparatus or supplies purchased under the terms of this agreement for use in or export to any other country than in (insert agent's territory) without permission from the "X" Company.

The quota clause found in many contracts sets certain sales or purchase quotas which the agent is expected to meet. They may be expressed in physical units of the goods or in monetary terms. They may be yearly, semiannual, "for the season," or some other period of time. They are often on a graduated basis beginning with the first year and increasing thereafter, and subject to change at certain specified times. It is found that by giving the agent a definite goal to work for they stimulate him to greater effort. The establishment of such quotas, however, assumes a rather thorough knowledge of foreign market possibilities. An example of such a clause, where the merchant agent is used, reads as follows:

> That in consideration of the exclusive rights herein conferred, the Dealer agrees to place an initial order for not less than (———)

("A" products) and ("X" Manufacturing Company's) ("B" products), together with a proportionate quantity of supplies, and to order and pay for each year not less than (———) ("A" products) and ("X" Manufacturing Company's) ("B" products), together with a proportionate quantity of supplies.

A majority of contracts have some sort of price-change clause. It governs the rights of both parties when price changes are made by the manufacturer, giving greater or less price protection to the agent and his clients, or perhaps no protection whatsoever. In any event, it specifies that the manufacturer has the right to change prices. One manufacturer has provided for this as follows:

> The prices of all Machines, etc., purchased by the Factor from the Company shall be the list prices published by the Company from time to time, subject, however, to such discounts as may be established and made current by the Company in accordance with the provisions of this Contract. Prices and discounts will be subject to changes, and such changes will become effective ten days after telegraphic notice of them shall have been sent from the Home Office at ———, ———.

An Acts-of-God clause is often found in the general run of agency contracts. Its purpose is to exempt the manufacturer from liability for failure to comply with the other terms of the contract or for delay in shipments due to certain enumerated causes. The content of one such clause is here given:

> The Company shall not be liable for delays or failures to make delivery of goods ordered hereunder occasioned by war, fires, the elements, labor troubles, interruption or shortage of transportation facilities, inability to obtain goods, or from any cause beyond the control of the Company.

Most contracts have an approval-of-order clause where the agent is acting solely as a commission agent. The effect of such clauses is to subject the filling of all orders forwarded by the agent to the manufacturer to the prior approval of the manufacturer. The manufacturer can thus control the credit risks which he assumes by virtue of such orders. As illustrative of this we have the following clause:

> It is understood that the "X" Manufacturing Company will assume the risk of each account accepted and have the privilege to refuse to fill any order that in their judgment is not worthy of credit.

The assignability clause occurs again and again as one reads over agency contracts. Its growing prevalence is a good sign, for the matter it covers is of much importance. Such clauses state whether the contract is assignable or nonassignable. The writer has found that most of such clauses relate only to the agent's ability to assign the contract. Nothing is said regarding the manufacturer's right of assigning the agreement. No doubt the latter is much less likely to desire to assign the contract. It does no harm, however, to protect the agent likewise by making its provisions cover both parties. An assignability clause is quoted below:

"This agreement is not transferable."

Occurring frequently enough to be classed with these usual clauses of the agency contract is the jurisdiction clause. It designates the country whose law shall be followed in all legal questions relating to the contract. When the manufacturer designates an American jurisdiction it affords him additional legal protection in that he knows just what the law on the contract is. Witness the following:

> All the provisions hereof shall be construed and given effect according to the laws of the State of Illinois, U.S.A.

Although these clauses are usually found in export agency contracts, the substance of the clauses quoted as examples cannot be taken as typical of the provisions of such clauses found in the general run of contracts. They vary radically with each contract. Nor can any general rule be laid down as to what the contents of such clauses should be—for the very reason that individual circumstances vary widely and call for all sorts and shades of treatment.

A great variety of minor or special clauses occur now and then in agency agreements. While necessary and desirable for the particular agency to which they may apply, they are, on the whole, quite uncommon. Some of these are:

The keeping of accurate accounts by both parties
The advances the manufacturer shall make and how he is to be reimbursed
The allowances the manufacturer shall grant the agent for defective goods, repairs by agent, etc.
The allowances the agent is permitted to grant his customers when

trading in second-hand goods of the manufacturer's or some other make
The provision for arbitration in case of disputes
The auditing of the agent's accounts
The agent's responsibility for bad debts
The requirements of a bond from the agent
The submission of a buyer's list by the agent to the manufacturer
The presentation of claims for loss and damage by the agent
The collection of drafts, disposal of refused goods, and protecting in general the interests of the manufacturer by the agent
The storing, caring for, and accounting for consigned goods by the agent
The status of translations and copies of the agency contract
The giving of credit and market information by the agent
The cancellation of orders by the agent or his clients
The rendering of specific shipping directions by the agent
The making of direct shipments by the manufacturer
The discontinuance of a line or adding a new line by the manufacturer
The assumption of extra packing, cable, postage, agent's traveling, taxes, license fee, storage, documentary stamp, and bank collection expenses by one party or the other
The handling and safe-keeping of the manufacturer's funds by the agent
The guarantee of goods given by the manufacturer and the representation under this guarantee which the agent can make to customers
The making of improvements of the product by the manufacturer and agent's rights in such cases
The requirement of a certain initial order at the time the agency is granted
The issuance of instructions to agents by the manufacturer and their observance; the effecting of marine insurance on the goods
The submission by both parties of invoices of goods sold
The assumption of liability for loss or damage of goods in transit
The maximum number of units of the product which the manufacturer can be required to supply to the agent during a specified time
The smallest individual shipment which the manufacturer will make
The minimum order which the manufacturer will accept
The modification or alteration of the contract
The granting of prices to the agent as favorable as those granted any other agent operating under similar conditions
The rendering of estimates of future requirements of the goods by the agent
The equal distribution by the latter in placing his orders
The use of manufacturer's order forms by the agent, also his stationery and envelopes

The allocation of orders to the agent by the manufacturer when production is short of demand
The procedure to be followed by the agent when orders are placed by the customer through commission houses
The kind of packing to be used by the manufacturer
The cancellation of other contracts by the signing of the one in question
The rights, duties, and liabilities of both parties upon termination of the contract, regarding repurchasing of products by the manufacturer, and solicitation of manufacturer's clients by the agent
The fixing of wholesale and retail prices of the goods by the manufacturer
The control of special quantity discounts to large buyers
The reports on calls made, sales made, stock-on-hand, and details relating thereto to be made by the agent
The return of goods—not defective—by the agent
The control of advertising
The use of a special representative by the manufacturer to supervise agent's activities on the spot
The service and service facilities to be rendered by the agent, the assumption of such expenses and the charges to customers
The appointment of subagents by the direct agent
The provision of a technical expert by the agent for sales promotion work
The registration, use and protection of the manufacturer's trademark by the agent

The same factors which were cited as causing differences in the services rendered by agents necessarily cause similar variations in the agency agreement. Appendix II sets forth agency contracts for a nonmechanical specialty, a mechanical specialty, automobiles and motion pictures, a comparison of which will readily show many differences due to such causes. The possibility of standardizing agency contracts has been broached now and then. But little substantial progress can be made in this direction. The agency relationship being such a vitally personal one, the personalities involved varying to such a large extent, and the wide range of influence the factors mentioned above have upon it make a standard export agency contract for general use impracticable. However, each individual manufacturer might well have a standard contract covering the most unpromising situation which he might use as a sort of bench mark in constructing the contour of his agency agreements.

Once the export agency contract has been carefully drawn up and properly executed and signed the manufacturer must not think that so far as the contract goes, the problem is solved once and for all. The conditions surrounding the agency undergo a continuous process of change. Certain provisions of the contract become antiquated, others become inadequate, and new matters arise which should be made a matter of written agreement. This requires the manufacturer to check periodically his contract with the course of new agency developments, and revise it accordingly, if this be advisable.

The successful use of the foreign agency method of distribution in export trade depends primarily upon:

1. A careful study of whether the foreign agency system is the best form of approach to the market in question
2. Painstaking selection of the foreign agent
3. Thoroughly selling the representation to the foreign agent
4. Drawing up an equitable, clear and complete written agreement governing the terms of the agency
5. Intelligent, unstinted coöperation with the foreign agent

FOREIGN MIDDLEMEN

Foreign middlemen are trading concerns located in foreign countries which assist in distributing goods to the ultimate consumers in these markets; or in procuring merchandise for United States importers. They constitute the "domestic" distribution system of the foreign country much as our own middleman system does in our country. There are many different types of foreign middlemen the more important of which, in addition to agents, just discussed, are: foreign export and import houses, factors, brokers, commission merchants and commissionaires, resident combination salesmen, resident buyers, wholesale concerns, wholesale-retail distributors, and retailers. Their number and the importance of any one of them will vary, of course, with the country, the product, and the particular marketing policy. A foreign trader should have a working knowledge of all of them, however, as it is upon these concerns that he must often rely for adequate distribution within his foreign markets or contact with sources of supply.

Outright Buyers.—Foreign import houses form an important contact point between American exporters and the foreign market. Ordinarily, they purchase goods outright from manufacturing exporters and export houses and resell to wholesale concerns. At times, they do handle commodities upon a commission basis. They will, also, occasionally sell to large retailers or consumers. General import houses handle a wide variety of products. They are found in all important countries, being of especially vital importance in those less developed regions of the Far East and the Levant where business conditions are less stable, credit precarious, and the distributive system unmodernized so that exporters would experience grave difficulties in dealing with the internal marketing mechanism. Many exporters use import houses, among them farm machinery manufacturers for the Argentine market, paper and paper products concerns for Bolivia, producers of a wide variety of lines for China, Japan, India, and the Dutch East Indies. Import houses usually are large firms, often with branch offices and warehouses in various important distributive centers in the country. They travel a corps of salesmen, advertise, display and service their products, take care of local hauling and shipping problems, extend credit, and perform many other necessary distributive functions, not greatly dissimilar from those performed by an American import house. When the exporter sells to import houses he looks to the latter to get satisfactory distribution for his market.

Foreign exporters and export houses comprise an important element in the methods of direct importing by United States houses. These are often general export and import concerns, while in other instances they specialize in one commodity. In the coffee trade of Brazil, the coffee often passes from planters through commissarios to export merchants who sell to United States import merchants. Tea is purchased on the Calcutta auction by merchant shipping houses, usually British, and they ship the tea to United States brokers for sale in this market. Rubber from the eastern plantations, gathered at Singapore, may reach the United States through general export and import houses (British and Chinese). Brazilian rubber is often sent abroad by exporters who usually work on a commission basis for brokers who have received the rubber from supply merchants who finally tap the local collecting agencies. Export merchants (sometimes called shippers) are also found in the carpet wool trade of China, in the cotton trade of Egypt, in the wool trade in Argentine outports, particularly Rosario and Bahia Blanca, in the kapok trade of the South Sea islands, in the jute trade of India, in the Peruvian sugar trade and in many other raw products trades. As mentioned in the preceding chapter, these houses may be the agents of American importers. In some instances, the houses in question are branches of American export and import concerns. As United States traders develop more direct contact with foreign sources of supply, the rôle of such middlemen as here described should become of greater significance.

Foreign wholesalers are integral parts of the distribution systems of most foreign countries. The larger ones often import goods direct from exporters instead of depending upon import houses. Where this is true they function in the same manner as the latter and are hardly to be distinguished from them except that they ordinarily handle more goods manufactured in their own country and more frequently specialize on a smaller group of products. Smaller wholesalers, especially those located at secondary interior distributive centers, do no importing themselves but purchase foreign goods from import houses, manufacturers' agents, brokers, factors, commission houses, exporters' foreign branch houses, and salesmen, or at fairs and auctions. They resell to the retailers in their vicinity. Fundamentally, they perform the same service that our own domestic wholesalers do except, of course, not many are in the position to give the high pressured merchandising service of the latter.

Some articles of import are purchased from wholesalers in foreign countries in contrast with export houses located there. In such cases the wholesalers perform the exporting function and in this light differ only in small degree from export and import houses. They are found at the end of the chain of distribution reaching from producers through brokers or collectors. Among the articles that are imported into the United States from wholesalers abroad may be mentioned Chinese eggs and egg products and Italian cheese.

Foreign wholesale-retail concerns conduct both a wholesale and a retail business. They are more important in many foreign markets, especially Latin-American countries, than in the United States. Such a distributor is usually located in the largest cities and handles a wide variety of products. In his own city he operates retail stores of his own and sells to such other retailers there as he can. He also travels salesmen to outlying points where they visit numerous retail dealers. In the Argentine, for example, a large importer of machinery, hardware, office desks, lumber, and other products does a large wholesale business throughout the country, and he also retails these products through his own branches in Buenos Aires, Rosario, and other places. Occasionally such a house will sell to other wholesalers.

Retailers of some kind or other are numerous in all foreign countries, being indispensable to the distribution of personal consumption goods. They sell goods in small quantities from spot stocks to individual consumers, often extending long-term credits. There is infinite variation in the types of retailers found abroad. In western Europe the variation is much the same as in the United States, except that consumer coöperative stores are more important there and chain and mail-order stores less important. The same is true of metropolitan centers in South America and even, to some extent, of the Far East, except that the consumer coöperatives are of negligible importance. Flashy specialty shops, palatial department stores, chains in lesser numbers, general stores, small shops, vendors, peddlers, all are present. The outlying districts are served by smaller, often poorly equipped retailers who know little or nothing of modern merchandising methods. But even here there is considerable variety, the Western European rural districts containing many reliable and efficient stores in contrast with the traders' shacks of the West Coast of Africa, the Chinese hovels of the interior of China, and the dingy, small huts of South American agricultural and mining districts.

Only in comparatively few instances does the American exporter deal direct with foreign retailers, and then almost always with the metropolitan and larger urban retailers. Department stores and large consumer coöperatives, by virtue of the size of their purchases, will themselves endeavor to make direct contact with foreign exporters to gain every possible buying economy. Specialty and other unit retailers in the larger cities must be solicited by the exporters' salesmen, by advertising, catalogue, letter, etc. The International Harvester Company and Eastman Kodak Company both sell direct to foreign retail dealers.

In considering these clearly defined units in the distribution chain abroad, it should be borne in mind that such precision may be difficult to find in practice. As the volume of business declines, the functions begin to telescope and the import and export house may also do the wholesaling. Moreover, it will be noted that the jobber is not mentioned among these wholesale channels. As a distinctive entity the jobber is rarely found in foreign countries except where the volume in one line is enormous, and even then the jobbing function, in many instances, would probably be performed by the import or export house or by the wholesaler.

Commission Buyers.—Foreign brokers are important distributive agencies for many commodities in numerous markets, especially where goods are sold on exchanges or on auctions. The European grain exchanges offer facilities for trading in American as well as other grains. American copper is bought and sold on the floor of the London Metal Exchange; likewise raw cotton of American growth in the pits of the Liverpool Cotton Exchange. Such exchanges provide ordinarily for future as well as spot trading.

There are also many brokers, particularly in European markets, who act as intermediaries between exporters and their customers or between a local foreign house and its customers. British lumber brokers, usually acting as factors, who dispose of American lumber exporters' shipments to British and Continental buyers are an example of the first group; whereas English raw cotton brokers, who bring English raw cotton merchants and their customers, the spinners, together, exemplify the latter group. They are paid brokerage fees of various amounts, depending upon the services rendered. The broker who handles import transactions frequently receives shipments, attends to their handling, storage, and delivery to the buyer; whereas a broker dealing only in local transactions does not handle these matters at all. Often brokers will guarantee credits.

Foreign brokers are also important in the United States import trade. As stated above, they often work in connection with organized markets, either exchanges or auctions and many raw materials that find their way to this country are traded in this manner. In the Argentine hide trade, for example, the packing houses often dispose of the hides through brokers who in turn ship to United States brokers. Java sugar, which is marketed almost exclusively through the Java Sugar Producers' Society, is exported through brokers situated in the islands. Foreign brokers are especially important in bringing products into the hands of exporters or into exporting channels. Many of the products already cited as being shipped by export merchants are placed in their hands by brokers. In the Japanese tea trade, for example, the tea reaches exporters from the manufacturers through the efforts of brokers.

As previously stated, brokers are, in many instances, associated with the operation of *foreign auctions*. While these are of only minor importance in distributing American products abroad they are exceedingly important for disposing of many staple exports of other countries to European markets. Examples of American products, which are sold by auction overseas, are secondhand clothing, particularly when shipped to the Constantinople market; and American fresh fruit, chiefly oranges, apples, grapefruit, and pears, are sold on London and Hamburg auctions. The auction may be operated by a firm confining itself to that business or it may be run by a large trading company. The regular large auctions as found in London, Amsterdam, and other centers provide space for the display of samples, list the products to be sold, provide adequate trading floors and other facilities, and auction off the goods through their auctioning brokers under a definite set of rules. Irregular auctions may also be held to dispose of refused goods. The auctions sell goods for exporters who have shipped consignments to them, for large import houses, commission merchants and brokers, large wholesalers, factors, and occasionally others. The buyers are mostly wholesalers, retailers, large manufacturing consumers, and the like.

Auctions are particularly prominent in the trade in raw products that find their way to the United States. Some auctions are held at primary collecting points contiguous to foreign producing areas but most of them are located at European centers which, for years, have occupied a position of prime importance in the grading, sorting, and selling of the products of their colonial possessions. England and Holland are particularly prominent in this respect.

Important auctions for goods entering the American import trade are the tea auctions at Calcutta and Colombo (in the countries of production) and in London (in the mother and marketing country). Plantation rubber is often sold on auctions situated in Singapore and Colombo. Australian wool may be auctioned in Sydney or in Liverpool and London. Quinine and cinchona bark produced in the Dutch East Indies are sold at auction in Amsterdam.

Although there is a general tendency toward the location of these markets in the areas of production, the established European centers will probably continue to be of some importance. By collecting the wool, spices, tea, etc., from all producing centers and assembling them in the European market, a greater variety of grades is displayed and standardization of grades is possible. These features are attractive to buyers. Moreover, the superior merchandising, shipping, and financing facilities available at the older European markets comprise a competitive advantage of considerable importance not likely to be entirely overcome for a long time.

Foreign factors are really a type of importing broker. They act in a similar capacity except that they regularly render more financial assistance to the exporter and deal with him direct. They usually allow the exporters to draw drafts against shipping documents for 70 per cent or more of the value of consignments to them, which they later sell for the account of the exporter, extending the necessary credit also to the buyer and assuming any consequent credit losses. The European leather and lumber factors are examples of this type of distributor. So-called *commission merchants* normally act in practically the same capacity in staple trades. Both factors and commission merchants receive consignments, care for them, and make deliveries.

Another type of broker is the *Oriental comprador* who is found only in the distribution systems of the Far East, particularly China. Language difficulties, the impossibility of foreigners obtaining reliable credit data, and the lack of long-established world trading houses such as exist in Japan have compelled even the foreign (owned and staffed by Britishers, Germans, etc.) import houses located in China, let alone the exporters, to use the native comprador. The comprador is a native with extensive commercial contacts who assumes the burden of getting Chinese dealers to handle products and who guarantees their credit. In the same way he collects Chinese goods for export. Sometimes he is a partner in an export and import house; or he may possess a financial interest in the enterprise. He is paid on a salary and commission basis. His extensive and intimate knowledge of market conditions, his ability to deal with natives advantageously, and his credit guarantees make him indispensable in many cases, even in the present day. During the last decade a number of native import houses of good standing have been established in China. As their numbers increase the importance of the comprador is likely to decline.

Resident combination salesmen located abroad sell the products of American manufacturers to foreign dealers. They are individuals who have agreements with the manufacturers whereby they are to sell their products, the goods to be shipped direct from the manufacturer to the buyer and billed to the latter by the manufacturer. Such persons carry no stocks but sell by samples and descriptions. They are paid by the producer in the form of commissions on sales made. They handle the products of a number of different manufacturers—often related lines. Their relative independence of action, they being left largely to their own initiative, makes them, in reality, middlemen rather than mere salesmen of the manufacturer's organization.

Resident buyers may be engaged by importers to place orders for them in the foreign market. They may be entrusted with selecting such merchandise as they might locate and which appears to them to offer a good opportunity for profit on the part of the principal. This method may be employed by a large American retailing establishment for specialty lines available in foreign countries. Combination buyers may also be found. These handle the purchases made abroad for several different importers, rather than only one.

A few miscellaneous types of middlemen are worthy of mention. Among these are *foreign manufacturing distributors.* An American exporter of chemicals, for instance, licensed a concern in Germany to use its secret formulas and processes to manufacture leather finish and polish preparations and to sell them to the German market. International exchange of patents and ideas is also practiced in the electrical and rayon trades. *Engi-*

neering concerns primarily interested in engineering and construction work may be of invaluable assistance to exporters endeavoring to obtain federal and municipal government contracts for supplying machinery and equipment for railroads, public works, and the like.

Commercial Gatherings.—In addition to the foreign distribution facilities already described, mention should be made of commercial gatherings through which sales or purchases may be made, either by means of a number of the trading methods explained or by direct contact.

Foreign fairs, exhibits, and expositions [2] provide the opportunity and facilities for exhibiting and/or buying and selling products foreign to the country, as well as domestic articles. They are of much importance, especially in Europe. The permanent exhibits are largely of purely advertising value, but fairs and expositions are used for buying and selling large aggregate quantities of foreign wares. The fair or exposition corporation provides only the space and primary facilities, not doing any trading on its own account. Goods of outside countries may be exhibited by manufacturers, export houses, or importers whose representatives sell them to wholesale and retail dealers and other buyers, and sometimes to such consumers as may attend the fair.

The most important types of fairs or expositions are: the general fair or exposition, sample, technical, industrial, and special. It is only at the general and sample fairs that important trading in imported merchandise occurs. The technical and industrial types are given over to exhibitions of inventions and progress in most lines, while the special ones cover only a restricted field, such as livestock. The large general and sample fairs "have permanent grounds as large as 200 to 300 acres and exhibition halls reaching 100 in number, with several million square feet of exhibit space available. Records of the number of exhibitors show from 200 to 500 at the lesser fairs up to 6,000 to 10,000 at the larger. The cost of space ranges from 1½ cents to $2.40 a square foot, in accordance with the prominence of the fair and the accommodations and services offered by the fair managements. The number of visitors—buyers, general public, and sightseers—who attend these shows may range from 100,000 at the smaller to 2,000,000 at the larger fairs held in the more populous centers.''[3]

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[2] For additional discussion of this subject, *see* Chapter XIX.

Such fairs and expositions enable sellers of imported goods to display them advantageously, to contact many prospective buyers easily, to promote general publicity of their products, to size up competitive products and conditions and to introduce new products advantageously. Buyers, on the other hand, can cover a wide field in a day or two, they have incomparable opportunities to compare imported goods, they can judge new market trends, and they may often discover new goods that promise profit.

Bazaars also fall in this group and the very name breathes the atmosphere of the Orient. These are counterparts of the market-place in European and American countries. A bazaar consists of a group of tiny retail shops nestled together in one locality. Each shop is usually owned and operated by the proprietor who squats on the doorstep within reach of the merchandise. Often the shops handling competing lines occupy the same section. In large population centers, the bazaars are operated daily, while in smaller centers they are held at more widely separated periods of time, in which case they are more like fairs.

It is unusual for bazaar merchants to deal directly with foreign exporters. They generally are supplied by import houses that reach them through traveling brokers. The small amount of merchandise which the bazaar dealer displays in his shop is no indication of the volume of business that he may transact, however, as purchases are often fairly large and a stock of goods is then maintained in a warehouse.

Problems in Handling Foreign Middlemen.—In conducting foreign trade directly through the medium of one or more of these foreign middlemen, it is clear that care is to be observed in selecting the particular house or houses with which contact is to be made. In large part this is determined by customs of the trade. Many of the ideas on the selection of agents given in the preceding chapter can be applied here, although not all. For instance, a house having an excellent local reputation for low-price goods may put an exporter's high-price, quality merchandise in bad repute and procure no satisfactory sales at all. Furthermore, it is important that the exporter coöperate with his foreign distributive system all along the line, down to the consumer, if necessary, and particularly with the houses to which he sells.[4]

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[3] *International Fairs and Expositions*, Bureau of Foreign and Domestic Commerce, Trade Promotion Series No. 75, p. 1.

COLLATERAL READINGS

See readings appended to Chapter XIV.

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[4] For discussion of dealer coöperation, *see* Chapter XVIII.

CHAPTER XVI

EXPORT SALESMEN AND IMPORT BUYERS

Among all of the methods of conducting foreign trade, none is as old and of greater significance than the foreign traveler. The personal contact with the foreign country which the salesman and the buyer provide places them in a unique position; it also gives us one of the most direct methods by which trade may be conducted.

Although ironclad rules may not be laid down to demonstrate precisely the wisdom of employing salesmen and buyers in preference to other methods of conducting international commerce, there are certain conditions that are generally most favorable to their employment. ① There are lines of merchandise in both exporting and importing which may be satisfactorily handled only by direct personal supervision. ✓ Individuals or branches alone will provide this. ② ✓ Technical products entering most largely into the export trade require explanation and demonstration. Salesmen are, therefore, trained and sent abroad to demonstrate such articles. Without this personal attention, the construction and even the utility of the product might remain obscure. Sales of machinery and mechanical appliances of various kinds, motor vehicles, etc., are often made through salesmen.

3 The same may be said of specialties which enter both the import and the export trades. In such instances there may be no established trade which will adequately handle these articles. The selling points may not be self-assertive and a representative is needed to convey this appeal. In the import trade, it is found that specialties and novelties are imported to a large extent through the medium of buyers. Indeed, in such articles, a real test of the purchasing and merchandising ability of a buyer is provided. The skill and knowledge required in the selection of such products cannot be safely delegated to any one else.

4 Similarly for quality goods. The same acumen for selection is demanded and a skilled buyer is employed. He is purchasing for a particular clientele and to do his work successfully, he

must be fully acquainted with their tastes. In the export trade, quality goods consist largely of trade-marked articles; and export salesmen are often, but by no means exclusively, depended upon for their sale. Other factors are of importance in this connection.

In some lines which are technical, specialized, or qualitative, and therefore particularly amenable to direct personal representation for purchase or sale, the volume of trade may be insufficient to warrant the expense incurred. As a buying or selling trip involves the outlay of relatively large sums of money, a sufficient volume of business must be realized to make the venture profitable. In lines where the margin of profit is exceptionally great, as in the case of specialties, the volume need not be so large as in the case of more standardized merchandise. In any case, however, sufficient business to warrant the expenditure must be transacted.

This is sometimes a difficult question to determine. Specialties and novelties are frequently of such nature as to preclude the scientific measurement of a market. Preliminary investigations will go so far and final determination of the ''taking'' quality of a product will rest until the market has been actually tested. It is in the possession of this acumen that buyers particularly are indispensable. Their ability to judge the sales possibilities of specialties and novelties which, if successfully offered, will yield high returns, justifies the confidence which their employers repose in them. Salesmen, as well, may possess that merchandising ability which alone may be responsible for the successful marketing of a technical or specialized product. The measuring of volume is, therefore, closely connected with the demonstrated skill of the buyer or salesman.

In arranging buying and selling trips, volume is also affected by the area of the foreign territory to be covered. If a product may be procured only in one locality, the expense of a buyer, as a general rule, is relatively greater than if a wider territory is covered or additional products of a complementary nature are purchased. The same may be said of the salesman. In the latter case, however, the territory to be covered is more easily arranged, because no such definite limitation is imposed by production. At times, trips extending over many months or more than a year are arranged and during this time sufficient territory may be covered to make the venture profitable in the aggregate.

Moreover, the actual distance at which foreign markets and sources of supply are situated from the United States is a factor in considering the advisability of sending a personal representative. Great distance so militates against sufficiently close contact with foreign commercial organizations and current conditions that the home office is handicapped in supervising the trade. Cable reports are in many instances depended upon as a means of obtaining closer contact, but often adequate contact is possible only by means of personal representation.

Articles which move in international commerce during distinct seasons of the year are often best handled by personal representatives, especially when the type of product also dictates this method. The volume of business which may be transacted during this restricted period of time may be sufficiently great to warrant the expenditure, whereas if it were spread over an entire year it might be unprofitable.

SELECTION OF EXPORT SALESMEN AND IMPORT BUYERS

It is generally conceded that when an exporter contemplates sending abroad a salesman, or an importer a buyer, the man selected should embody the highest qualifications. In the words of Dr. Julius Klein, Assistant Secretary of Commerce, " . . . it is a direct affront to the United States and to its more conscientious exporters to send to foreign countries simply the individual who can be spared with the least inconvenience or who happens to have some superficial quality to commend him."[1] The American who thus goes abroad bears with him the threefold responsibility of the reputation of his country, his firm, and himself. Whether he realizes it or not, he will be accepted as a sample of his countrymen and of his company.

Some indication of the qualifications which export salesmen and import buyers should possess, in order to enable them fully to measure up to their position, will manifest the care which is to be exercised in their selection.

1. It is generally admitted in foreign trade circles that a foreign representative should be of good personality. This em-

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[1] *Commerce Reports*, Aug. 28, 1922.

braces a wider connotation than mere appearance. It refers also to his character. Self-control is stressed because the restraint imposed by home ties or convention is absent. Habits at all times must be moderate and vexatious delays and conditions are not to be allowed to call forth an exhibition of temper.

2. He, of course, should be reliable and of sound judgment. Often thousands of miles away from the home office, he must be capable of standing "on his own." There is no reasonable opportunity of calling his superiors on the telephone for instructions in a troublesome situation. All decisions, except weighty ones, must be made on his own responsibility. To measure up to this standard it is essential, therefore, that export salesmen and import buyers be reliable to the utmost and capable of making independent decisions.

3. It is desirable that he possess good social qualities. Export salesmen and import buyers, as is generally true of all business representatives, should be good "mixers." The man who draws a close line of color, race, or creed is at once handicapped in exemplifying this quality. In foreign countries people who are often essentially different in many respects from Americans will be found. He should be capable of associating with these people as his own equals. A superiority complex, no matter how justly warranted, is apt to cause resentment and result in failure.

4. He should be tactful and courteous, and this implies a willingness to consider the point of view and feelings of other people. Much has been said about the courtesy which custom decrees in foreign countries while, at the same time, too little stress has been placed upon the importance of tact. An overzealousness in courtesy is quite conceivable, but the tactful person is at all times in a comfortable and even enviable position. It is generally agreed that courtesy should be as spontaneous as possible. Social customs which engender the display of courtesy on the part of foreigners may be gradually acquired by the tactful visitor from alien shores. An overeagerness fully to acquire and conform to the courteous requirements of foreign social usage has at times led to submerged ridicule.

5. The exporter's or importer's choice frequently goes to the tenacious individual rather than to the temperamental one. Particularly in export selling, results are often long in coming and without that courage and tenacity of purpose which is to

be sought in the "plugger," there is bound to be discouragement. The necessity for this qualification is one of the reasons why a successful salesman or buyer at home is not necessarily destined to attain the same success abroad.

6. Accuracy in the many details of business is everywhere essential, and is particularly important in export selling and import purchasing. Errors, even though slight, are bound to cause irritation and misunderstanding. An appreciation of the importance of this characteristic will render the sales representative exacting in the transmission of orders, making of promises, settlement of disputes, and other activities which call for accuracy. Care taken at this contact point between an exporter and his overseas customers will assuredly facilitate the maintenance of good-will. Accuracy is equally as important in the import buyer. His ability to size up a situation affecting the supply of an article which he seeks, to get at prices and at laid-down costs, bear a decided relation to the profitability of purchasing the articles in question.

Another group of qualifications may be noted under the designation "intellectual." These will indicate what foreign representatives should know:

1. It is obviously important that any salesman should possess a thorough knowledge of the product which he represents. The export salesman, who often is far removed from any home contact closer than the United States, is unable to procure additional or supplementary information on short notice. Cabling is often expensive. It is, therefore, essential that he be thoroughly conversant with every aspect of the product he is selling—its technical description, its utility, its assembly and operation. Frequently it is found advisable to put such men through an intensive training in the production branch of the business, in order that they may acquire this information.

If knowledge of the product is essential for the salesman, it is at least as important for the buyer. He must be capable of judging the quality and marketability of the products that he examines. This examination will not stop with one line or one brand, but may extend over many. Indeed, no qualification is more necessary for import buyers than knowledge of the products he is seeking. Whereas the salesman already possesses the product and goes out to get business, the buyer's task is to procure a product which will in turn result in business for his firm. One is inclined to say that, proportionately, knowledge of merchandise is even more essential for import buyers than for export salesmen.

2. Knowledge of the country to be visited is an important asset. Preference is given by many exporters and importers to persons who have previously traveled abroad, especially in the countries to which they are to be sent. The salesman or the buyer who has not made such trips, however, is not barred, as other qualifications are of equal or greater importance. Considerable knowledge of a foreign country may be obtained through studying at home, although this cannot be considered the equivalent of actual experience.

3. Time was when a knowledge of the language of the country to be visited was a prime qualification for business travelers. This attitude has changed greatly in recent years and other qualifications are now considered paramount by many business firms. It is, nevertheless, highly desirable for a representative who is going abroad to be able to converse in the language of the country. The employment of interpreters is a practice now frowned upon. Especially in selling, the sales appeal frequently loses its effectiveness when translated and delivered by an interpreter.

It is significant to note that English is widely employed in trading circles all over the world. It is spoken as the official language in the United Kingdom and all British possessions and dominions, including such vast areas as Canada, Australia, New Zealand, India, and South Africa. Moreover, English is the language used in Far Eastern trade generally, and it is widely employed in countries of northern Europe.

French, Spanish and German are usually considered as the balance of the commercial languages of the world, except that Portuguese is necessary in the case of Brazil and Portugal. In some countries, as in China, the desirability of acquiring the native tongue and dialects seems to increase as such nations grow in commercial significance and awaken to a national consciousness. This may, however, be considered as a tendency rather than as a present-day necessity.

Americans have, in the past, been considered unwilling to acquire the knowledge of a foreign language, but in common with other changes in the last few decades, there is evident a greater conformity with the qualifications which business representatives should possess.

4. When buying or selling in foreign lands where the approach is tedious and slow, the conversation is likely to shift to any subject except the business on which the representative is bent. Many topics which come up for discussion relate to problems and conditions existing in the United States. America's industrial, commercial, and financial organization and development are closely followed by foreign business men. Political and international problems in which the United States plays an important rôle, or is likely to, are likewise of interest. It becomes evident, therefore, that the purchase or sales representative who is traveling in foreign lands should be fully informed on such matters. His presentation of the pertinent facts involved in questions such as these may have a decided bearing upon the esteem in which the United States as a nation is to be held by foreigners. In this sense, as was stated before, the overseas traveler is a spokesman for his country and often will be taken as a pattern of it. Obviously, the education, experience, reading, breadth of interest, and knowledge of the export salesman or import buyer are of importance in surveying his qualifications.

Although this question has been discussed uniformly for salesmen and for buyers, the essential difference between buying and selling should be noted. In the usual run of business, the salesman is the aggressor; he is on the offensive while the buyer is on the defensive. The former is trying to persuade the latter to purchase his particular brand or quality of merchandise. It is only in instances of restricted supply that we find buyers competing for the purchase of goods. For this reason, it is probably borne out in practice that salesmen possess more of these qualifications than do buyers. Salesmen, in a sense, are intruding while buyers are more genuinely welcome. If a man is about to give an order for five thousand dollars' worth of merchandise, he must be handled discreetly and the situation is far different than if he were endeavoring to sell this same amount. Any shortcomings he may possess do not loom as large as those of the salesman.

Moreover, a difference based upon trade practice may be pointed out. While the export salesman usually devotes his entire time to this type of work, it is often found that the traveling buyer is also engaged in work at home. Buying trips are made periodically and for shorter periods than are most selling journeys. For example, in the department store business, the buyers are at the same time the heads of the particular departments handling the merchandise in which they specialize. For this reason, it is important that they be capable executives over a part of the home organization as well as successful foreign buyers. Exporting concerns frequently engage men to be trained as export salesmen, but a man often becomes a buyer only after having demonstrated his ability in the managerial phases of the business.

TYPES OF EXPORT SALESMEN AND IMPORT BUYERS

Export salesmen and import buyers are generally thought of as business travelers who leave the United States for a certain period of time, who travel to and through foreign countries to sell or buy, and when the merchandising trip is over return again. These may be referred to as traveling representatives.

Traveling Representatives.—Upon export salesmen and import buyers of this kind is imposed the responsibility of making the sales or purchases for which they are sent. No other method of doing business need be carried on with the particular foreign country to which they go. They are the sole foreign representatives of their employers. They are "on their own," far away from the home base, and because of the responsibility which they bear as a sole method of representation, this class is probably the most important of all.

Other types of buyers and salesmen are limited in one way or another in their activity and responsibility, but they, too, are very important.

Another type of traveling salesman or buyer works in connection with some concern already representing his employer. He is not the sole method of merchandising but, nevertheless, is viewed as a spokesman for his principal. In export selling, such a man may be sent abroad to visit the firm's agencies in much the same manner as in domestic trade. His work is to instill energy, enthusiasm, and loyalty into the agents or other representatives. He also instructs the agents as to new products or methods of representation and conveys personally the policies of the company. In case an agent has encountered any particularly difficult problems or customers, the salesman endeavors to straighten out the situation. He thus is more a demonstrator and tutor than an actual salesman. The agent is the one he wants to "sell," and in this way additional trade may develop from the awakened agent. In case sales are made to particularly difficult customers with whom the agent has experienced trouble, the latter's commission is protected. Such salesmen represent a highly developed type of selling, whether at home or abroad. Their work consists of keeping an organization running rather than in building one up.

Another form of coöperation with agents is found when exporters send technical experts to visit their foreign connections. In highly technical and mechanical lines it is difficult in many countries to find representatives who are adequately trained in technical matters, although they may be excellent merchandisers and may possess the proper sales contacts. In such cases coöperation is more desirable along technical lines than for the solution of selling problems. The salesman in such instances is not really a salesman at all but acts as the manufacturer's technical representative.

In the import trade, buyers are rarely sent abroad merely to coöperate with established buying affiliations; rather, the reverse is true. When resident buying relations are maintained, valuable assistance may be rendered to buyers when they travel abroad.

Resident Salesmen and Buyers.—Another type to be considered are those whose activities are restricted by the territory they cover and often by the responsibility they bear. When American exporters establish branches abroad, salesmen are usually employed by the branch to sell in the territory covered. Such salesmen are often not Americans, but natives of the country in which the branch is located. In any case, they work under the supervision of the branch manager. Such salesmen are, therefore, to a large extent local in character and do not require the high qualifications of traveling representatives.

The same may be said of foreign branch organizations which are established by American importers. The manager is in charge and supervises the work of whatever buyers may be employed.

A resident buyer or salesman, one who is sent out from the United States to reside for a length of time in a certain territory and to maintain headquarters there, is in reality a branch and is, therefore, discussed in that connection. It is true, however, that in some instances there is a difference. The representation is personal rather than functional. For example, a department store may have its own buyer in the Far East to maintain headquarters there, travel about, and purchase goods. He is sent from the United States and constitutes a resident buyer rather than a resident buying office. Essentially, however, the governing considerations are identical with those involved in branch operation.

Combination Salesmen and Buyers.—Often a concern handles a product which may best be represented by personal contact, but one in which the volume of business transacted is insufficient to warrant the expense of engaging a salesman or buyer. In such instances it may be desirable to employ a combination representative.

In the importing business, for example, specialty and novelty lines, which are best purchased by direct buyers, may be small in volume so far as one particular item is concerned. A buyer may, therefore, be sent abroad to purchase a group of articles which are obtainable in the countries to which he goes. This is a common practice of department stores and other retail establishments. Generally, however, the buyer is employed by the one house which is interested in all of the commodities in question. A buyer who possesses the essential qualifications called for in his position is often sufficiently skilled successfully to purchase a range of products which may or may not be related. The data with which he prepares himself before he goes abroad, plus his natural ability, may fit him for this combination task.

When the same plan is invoked as a sales method, however, the problem is somewhat different. If the salesman should handle a range of products manufactured by one particular concern, he would not be called a combination salesman. It is only when two or more lines of different producers are represented that the term combination export salesman is employed. Instead of having one employer's interest to represent he has two or more.

Combination salesmen naturally are confined to noncompeting lines of goods and preferably to related lines. Thus, he may handle a group of automobile accessories, *viz.:* one brand each of spark plugs, windshield wipers, warning signals, cigar lighters, etc. In the drug trade, also, a similar grouping of analogous but noncompeting lines of several different manufacturers may be advantageously handled by a combination salesman.

It is quite obvious that the same care and attention which a salesman representing only one line could devote to the product cannot be given by the combination salesman. But if the lines are as analogous as those indicated, each should receive a fair share of his sales efforts, since a prospect for any one of the lines is a prospect for any of the others.

Such a salesman may gather together the lines he intends to handle by personal contact, by advertising, or by introduction. The proposition is laid before all of the concerns who are interested and agreement is reached as to the apportionment of salary and expense, as well as all other mutual affairs.

Although this plan of selling is successful in many lines where combination is feasible, there are two chief difficulties to be considered. First is the natural tendency to procure the bulk of the orders in the lines which move most easily and which, therefore, do not involve excessive sales effort. This is the risk which is run whenever a straight salary is paid to the salesman. In attempting to obviate this temptation, the second difficulty may be encountered. If compensation is made on the basis of commission, either partly or wholly, the natural tendency will be to concentrate on the most lucrative lines. In either case, there is considerable probability that all lines will not receive the same attention. This is likely to be so whenever several lines are handled by the same salesman, whether he is singly or jointly employed. It is quite possible, however, when handling lines which are closely related as to sales possibilities as well as lucrativeness, to distribute merchandise abroad through a combination salesman in a manner quite satisfactory to all parties concerned.

Additional Duties of Export Salesmen and Import Buyers.—The duties of the various types of salesmen and buyers are in many respects wider than those brought out in the preceding discussion. Buyers, in a broader sense, are called upon to represent the interests of their principals in every matter which affects the business, in style and price changes, in production conditions, inspection of merchandise, etc., as well as in the purchasing of merchandise. Similarly the export salesman who serves his firm to the fullest extent is more than a salesman. He is, among other things, a direct source of credit information. The export credit manager will, of course, exercise his own judgment when requests for credit are received and utilize other available sources of information, but the foreign salesman is in a position to forward valuable data concerning a customer's credit standing and keep him informed of general economic and political conditions, which may have an important bearing upon export credit decisions. The Export Credit Manager will necessarily have greater confidence in the credit and general conditions reports of some salesmen than in those forwarded by others. A successful salesman may be untrustworthy in his credit advices concerning particular customers, and his judgment of economic or political conditions may be notoriously unsatisfactory.

The export salesman frequently takes a more or less active part in advertising and trade promotion campaigns. Not only may his advice as to methods be worthy of consideration, but his location abroad may enable him to provide necessary data concerning newspapers, trade journals, general magazines, correspondence lists, advertising agencies, etc., and, being the firm's only direct foreign representative, he may be able to assist the export advertising manager locally after a campaign is under way. Instances may be cited of experienced export salesmen who have in an emergency been authorized to undertake suggested local promotion campaigns.

When trade disputes arise he is expected to take an active interest in bringing about a satisfactory adjustment, and when customers become disgruntled he must usually depend entirely upon his own initiative. Should foreign customs regulations and import duties interfere with the entry of a shipment and threaten to disrupt his market he is expected to make a study of the situation, take steps to untangle the difficulty if possible, and keep his firm informed.

Either the salesman or the buyer should be able to advise, or at least to provide information concerning the probable future of the market in which he represents his firm, and the method that should be used there in the future. If a change in trade methods is decided upon he may be able to assist his firm in the making of preliminary, if not final, arrangements. He may, indeed, be able to make valuable suggestions involving changes in the commodities themselves, in case circumstances warrant some alteration.

COÖPERATION WITH EXPORT SALESMEN AND IMPORT BUYERS

Salesmen and buyers who go abroad to represent their principals are subject, as are all other persons, to the vagaries of human nature. Particularly in the case of salesmen, is the necessity of maintaining contact with the home base, and of extending coöperation and encouragement in every way, so essential. An exporter or an importer has no justification for assuming that as soon as his foreign traveler has departed, the success or failure of the venture lies entirely within the province of the latter. Although these travelers are essentially placed upon their own responsibility, there is a great deal which the principal may do in order to make the trip successful.

Coöperation begins before the departure of the representative to foreign lands. The way must be prepared, in order that time will not be lost in gaining a foothold or in seeking contacts. Letters may be sent in advance to United States Government representatives, chambers of commerce (especially American), or other public bodies abroad. Correspondence may also be directed to prospective customers and to producing companies, in case some contact has not been established by previous visits. If the salesman or buyer has already covered the same territory, there will naturally be some firms or individuals to which he will write, advising them of the prospective voyage. By so preparing the way of the traveler, he will not only be able to go at once to places and persons with whom contact is established, but he will also visit strangers who already know at least the name of their caller and, in a sense, are expecting him.

Of course the itinerary of the traveler will include the places which it is best to visit and as much detail is to be previously arranged as is possible. Itineraries are naturally subject to change, but some indication is thereby given as to when the traveler may be reached at a certain place.

Letters of encouragement, additional sales helps, testimonials, data on the product being sold or bought, changes in supply or demand, and similar matters of information all prove to the foreign traveler that the home base has not forgotten him and is keeping him advised as efficiently as though he were at home. In no case may it be assumed that a salesman or a buyer will prove a success if left entirely to his own resources.

An important phase of coöperation consists in backing up the judgment of the traveler. Under our qualifications of salesmen and buyers were noted the essentials of reliability and good judgment. If an error has been committed in selecting the individual who goes abroad, the fault lies with the principal. The assumption is that these desirable qualifications are present. This being the case, confidence is naturally engendered, so that the judgment of the representative may be fully supported. If he has made a mistake in judgment it must be admitted as an honest error. Commitments which the salesman or buyer has made in the name of his principals, and in good faith on the basis of the authority entrusted to him, should be rigidly backed up and performed by the principals. It is easily understood that no greater discouragement could come to a salesman than that occasioned by the cancellation of orders after strenuous efforts have finally yielded success. Instances may be cited where the home concern, failing to go all the way in the confidence which it originally imposed in its representative, has refused to meet the commitments of the latter on such matters as qualities, styles, or make-up. Often such alterations from standard forms are essentially unimportant from the production angle, but they may be decidedly significant to the foreign customer.

In all ways the importance of close coöperation and complete support of the buyer or salesman in the foreign field is paramount. This, of course, does not mean that he is to be allowed a completely free rein without any semblance of control or authority. Whatever specific instructions may be given him are necessarily binding upon his actions. In addition, good business demands that certain records be periodically submitted by the traveler during his trip. These include expense accounts, reports on customers or suppliers, credit data, and orders taken or placed.

FOREIGN REGULATIONS AFFECTING COMMERCIAL TRAVELERS

It is important that a buyer or salesman be as fully informed as possible with respect to the foreign regulations with which he will be required to comply. In case such regulations involve the expenditure of funds, their inclusion is necessary in order to estimate properly the expense of the trip; and if certain documents are necessary for entry into a country or for the final consummation of a business arrangement, these should be procured before the voyage is begun.

Import duty may be levied by foreign governments on the samples which export salesmen bring into the country with them. Generally speaking, such duty is levied only in case the samples are of commercial value. An effort may be made to render goods of no commercial value and still retain their utility as samples. This may be accomplished by mutilating the merchandise in an immaterial manner such as by punching a hole in it, splitting it, etc. At times such mutilation might serve to demonstrate more effectively the construction and quality of a sample. In case such change cannot be made, duty will be assessed against the samples. Usually a bond may be posted to guarantee the payment of duties in case the samples are not reëxported within the time limit prescribed by the foreign law.

Although salesmen's licenses are generally thought of in connection with house-to-house canvassers, peddlers, etc., there are some countries which fail to consider commercial travelers as being in any different class. Particularly in Latin-American countries export salesmen may, therefore, find themselves confronted with the necessity of paying license fees for the privilege of visiting the trade. These fees are in some instances of a federal variety and they may apply throughout the country; but there are often provincial and even municipal fees also to be paid. The most satisfactory way in which the payment of onerous license fees may be avoided is for the traveler to affiliate temporarily with a local concern which already has complied with the license requirements. In such way, the foreign traveler is considered a member of the staff of the native house. If agents or branches of the exporter are located in the foreign country, this arrangement may be made quite easily. In case a new territory is visited, it will be more difficult to arrange this but it may be possible to establish connections at the outset with a local house before attempting to canvass the market.

Miscellaneous taxes, such as those based upon income or those levied on advertising matter, may also be encountered by export salesmen.

Another group of foreign regulations refers to the documents travelers must possess in order to enjoy certain privileges. The absence of such documents is a serious handicap.

Passports are required by most foreign countries and occasionally a health certificate is required in addition to or in lieu of the passport.

A power of attorney is required by the law of some countries as evidence of the authority of the traveler to act for his principal. Without such authority, the salesman or the buyer would be unable to sign a contract. He is what James H. Collins calls a "legal nobody." In countries where the power of attorney is meticulously required, the document is analyzed with extreme care in order to determine the precise limits of the authority conferred. It is, therefore, necessary in those countries and advisable in any other, to provide the export salesman and the import buyer with a comprehensive power of attorney which will, in case of need, prove the exact limits of such authority.

Just as the power of attorney establishes authority, foreign travelers should possess some evidence of identification in order that they may be recognized and may claim any rights to which travelers are entitled. Although not legally necessary, it is also highly desirable that letters of introduction be carried. These may consummate the contact which was initiated through the letters that were sent to prepare the way for the traveler or they may be directed to firms or individuals with whom no previous contact has been made. Such letters are not only prepared by the principal for whom the traveler is acting but may be written by brother exporting or importing concerns which are willing to aid in this way.

In connection with these fees, taxes, and documents, it is interesting to note the trend of thought regarding the various restrictions imposed by the different nations upon the freedom of foreign business men. Take, for example, the proposals of the Trade Barriers Committee at the 1927 Congress of the International Chamber of Commerce held at Stockholm. Among these proposals appear such as would grant to commercial travelers freedom from special admission or permission to sell or buy goods; to take, execute, and deliver orders; to visit and take part in, either as exhibitors or buyers, all markets and national fairs; and by possessing an identity card as provided by Article 10 of the International Convention for the Simplification of Customs Formalities not only to buy and sell without restrictions but also without being obliged to pay special dues or taxes on the samples they carry.

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CHAPTER XVII

FOREIGN BRANCHES

The most direct method of conducting foreign trade is through the medium of branches established in the foreign territory. Although certain American manufacturers have maintained branches abroad for many years, it was not until the War and post-War periods that branch distribution attracted wide attention. It is a concomitant of the expanded foreign business of the United States and the closer study of foreign markets by manufacturers who have definitely committed themselves to world-wide distribution. Much of the data herein presented were obtained from American concerns known to have foreign branches in their sales organization.

The principal types of branches found in foreign trade are: (1) the foreign branch buying or selling office; (2) the foreign storage or warehouse branch; (3) the foreign purchase or sales branch; and (4) the foreign branch manufacturing or assembly plant.

The foreign branch buying or selling office is the smallest unit of which a branch may consist. Office space, or even desk space, will suffice to render the minimum services which a branch may perform. Stocks are usually not carried, but samples, catalogues, and descriptive matter are kept on hand. The resident manager covers the territory assigned to him, visiting dealers for such purposes as soliciting orders, promoting sales, and settling claims and disputes. He may also look after shipments and conduct credit investigations. Many concerns employ such offices in their principal trade centers and effectively direct distribution under the supervision of, and in coöperation with, the branch.

In the same way, a foreign buying office may be maintained. A manufacturer in the United States who uses foreign raw materials or manufactures is thus in a position to keep in closer touch with sources of supply, to advise the home office of current and prospective market conditions, to arrange for the handling and shipment of goods purchased, and in other ways to render a valuable buying service. The same may be said of retailers and department stores which maintain foreign buying offices. In the case of specialty lines, the element of style is pronounced and personal selection becomes almost a necessity. It is quite conceivable that this direct method is of at least as great importance in the import as it is in the export trade.

With the maintenance of stocks, the foreign storage or warehouse branch comes into play. This may be used entirely for the purpose of filling orders or it may be coördinated with merchandising or manufacturing functions. Whenever prompt delivery is an important factor, or repair, replacement, and supply parts are essential, the storage features become indispensable. One concern, for example, reports that its branches had been established specifically for the purpose of maintaining in foreign countries an adequate supply of parts. The branch is used in lieu of agents, because the latter could not be induced to lay in a sufficient quantity of parts to serve the trade satisfactorily.

The foreign purchase or sales branch performs a strictly merchandising function and it is operated often in conjunction with storage or manufacturing facilities. In this case, the branch is essentially the channel of foreign distribution or purchase, as contrasted with the branch office which usually coöperates with other channels. It is in this sense that the branch is most often considered. From the sales angle, it is in reality a miniature of the parent organization, exclusive of its production plants. All of the functions of the branch office are performed, and, in addition, parts are supplied and usually orders are filled. It is true, however, that shipments may be made from the home company directly to the customers, especially when purchases are large and represent a high value. The branch manager will control all selling efforts of the salesmen attached to the branch. Sales are usually made only through wholesale or retail channels but in some instances branch retail stores have been established. The shoe companies provide an excellent illustration of foreign branch retail selling, as also do certain specialty shops in the import business, but consumer distribution through branch retail stores is unusual in foreign trade.

Foreign assembly plants are established in order to save on ocean freight, government fees, foreign customs duties, and other charges incurred in the exportation of merchandise. When merchandise is shipped in large quantities, and in knocked-down condition, as usually is permitted by branch operation, freight charges and official fees are relatively lower and customs duties are frequently less for parts than for complete units of goods. In the automobile trade, for example, a completely assembled car will usually be charged a higher duty than the constituent parts unassembled, and ocean freight rates would similarly be higher. The same is true in many lines of trade and when the volume of business conducted or in view will warrant, economy is achieved in the assembly plan. The same applies to a less extent to the import trade of the United States. Since our imports are predominately of a raw and bulky nature, the foreign assembly of imported merchandise is not as common as in the case of exports of manufactured goods.

From the assembly function to a fully equipped manufacturing establishment abroad is a long step, and yet a progressive one. The extent to which the manufacturing processes may be economically transferred to a foreign country will be dictated by production costs, as well as by economy in the export expenses mentioned above. Various advantages are found in different parts of the world and the aggressive exporting company is always on the lookout for them. Exceptionally disadvantageous protective tariff rates may force a foreign concern to produce locally. One of the results of the British system of Imperial Preference in tariff has been the establishment of American branch factories in Canada. Other factors may, however, be instrumental. A Canadian spokesman, for example, asserts that the American factories have been wooed, and not coerced into his country.[1] This may be accomplished by offering advantageous factory sites at low cost, skilled labor at attractive rates of wages, local tax exemptions, proximity to sources of raw materials and other attractions. The same conditions would apply in the case of the establishment of a branch factory in the United States by a foreign manufacturer transacting business here.

CONDITIONS DICTATING THE ESTABLISHMENT OF FOREIGN BRANCHES

Volume of business is found to be the most general factor governing the advisability of establishing foreign branches.

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[1] Floyd S. Chalmers in *Nation's Business*, October, 1927.

This refers particularly to sales branches. When volume of business has approached a figure sufficiently large to offset the increased selling expenses incurred in branch distribution, a most favorable factor is present. The attainment of volume, however, does not necessarily prove the advisability of establishing foreign branches. Some large exporters obtain highly satisfactory distribution through other channels. Conversely, it is to be noted that in some lines there are conditions other than the mere existence of volume which are of a determining character.

Potential volume of business may be set down in this connection. From the information assembled, it is indicated that rarely is existing business of sufficient magnitude to dictate the establishment of branches. Market possibilities in many instances are so attractive, however, that it may be safely predicted that the branch will eventually attain the necessary volume, and thus become profitable. Losses are usually to be anticipated at the beginning but the replies indicated in general that the branch should become a paying proposition after having been established for an average of three years. Some concerns reported this unprofitable initial period to be one or two years, while in the experience of others it ran as high as six years.

Some export wares are of a specialized, technical nature and for this reason effective distribution is obtained principally through the branch house method. Articles which call for demonstration, for service facilities, for repair and replacement parts, are especially adaptable to this plan of distribution.

The case of a western company which manufactures a product of a highly specialized nature for use in mining and quarrying operations may be cited. When it first entered the foreign field this concern was unknown to the trade and the account was not attractive to prospective distributors. The specialized nature of its product forced the company to adopt the branch method of distribution in order to procure effective representation. Several automobile companies have established assembly plants abroad, partly for the purpose of maintaining adequate repair and replacement facilities. Other lines of machinery are similarly distributed in the most effective manner when these necessary facilities are made available. Technical and specialized articles which depend largely upon sales effort for success in the market are provided with the necessary intensity through branch distribution.

A world famous exporter of a specialty product of wearing apparel established branches in order that accurate and up-to-date contact with current styles might be maintained. This company enjoys a large business in Europe, and styles for forthcoming seasons are largely set in London and Paris. Efficient management of this business demanded that the company be on the ground where changing styles may be discerned promptly. Even products of a more staple nature will respond to improved and intensive sales efforts. One of the packing-house exporters, for example, reports that its branch managers obtain better foreign prices than commission agents are able to procure. In this business, price data are highly important, and, being of a fluctuating nature, current price information is indispensable.

Adequate financial resources are another attribute of foreign branch distribution. The establishment of a foreign branch system of manufacturing or production particularly involves a substantial initial outlay of funds. In fact, when it is said that a company operates its own foreign branches, there is generally a presumption that the concern is exceptionally strong financially. The importance of this factor looms even greater when it is recalled that an average of three years is required before a branch becomes a paying venture.

Sentiment was mentioned by one company as the predominating factor in its decision to establish foreign branches. The "Buy British Goods" campaign in British Empire countries so affected the exports of this concern that it became necessary to locate branches in important British markets. Even in the absence of organized propaganda of this nature, a foreign branch establishment gives to a concern a sense of permanency and its business interests are thereby definitely associated with the future and with the people of the country in which it is established. Customers are led to place greater confidence in the company and in its product. This condition may be viewed also from the point of view of the exporter. A machinery exporter, for example, states that "direct exportation . . . gives us the comfortable feeling that we are always building a strong foundation, whereas an agent may be returning satisfactory sales but building up his own reputation and not that of the manufacturer."

The chief competitor of the branch system of distribution is the agency method. For various reasons a manufacturer may be forced to adopt the branch method because of unsatisfactory agency possibilities, and this would leave the field almost clear for the branch. The territory may be too large for an agent to cover efficiently; the firm's present agents may have been unsatisfactory, and all desirable agents who are available may already possess arrangements with other manufacturers; or perhaps agents cannot be attracted, as is illustrated by the manufacturer of mining machinery, previously referred to. This same concern further reported that because of the excessive discounts that would have to be paid in order to attract an agent, the company preferred to undertake its own branch representation.

A few companies reported that their foreign branches return no profit to them but that they are maintained for the purpose of reducing the factory overhead. This is accomplished by the increased production necessitated by the export sales made through the branch. One company reported that foreign branches are maintained principally to provide an outlet for inferior quality products. The presumption arises that these "seconds" are not attractive to other more economical channels of distribution and that the branch is therefore necessary.

A frequent cause for the establishment of foreign branches is of legal origin. Import duties, as discussed above, are frequently so high on finished and assembled manufactures as to encourage the location of a foreign assembly plant or factory. Taxes may impose an unfair burden on a business not established in the country. In many instances, official business with governments, states, and municipalities is impossible unless the foreign supplier is nationalized and local stocks of goods must often be maintained if government sales are anticipated. One company found that heavy losses were incurred on samples of merchandise withdrawn from all shipments by customs authorities for analysis. On shipments of larger quantities, the fixed amount of customs withdrawals did not weigh so heavily and only by means of a branch could this volume be reached.

Similarly, patent laws may be so worded as to require the presence in the country of manufacturing concerns holding foreign patent rights. In the United Kingdom and Canada, for example, the law contains a so-called "working clause," whereby patents must actually be worked in order to maintain the validity of the patent right; otherwise it is forfeited. This may be done directly or through a licensing arrangement, but if direct control over the foreign exploitation of the patent is desired, a branch plant offers the best plan.

The establishment of a branch does not, however, confer a guarantee of permanent business. Conditions arise which may necessitate or render advisable the closing of foreign branches. The World War was responsible for the closing of many branches located in inaccessible belligerent countries, and, in some instances, these have not been reëstablished. A more common factor of this nature has been civil disturbance in some unstable countries, and this has kept out branches for a considerable period of time. It is apparent that unless the investment incident to the establishment of branches is safeguarded, this means of distribution is inadvisable. One company, which exports a staple agricultural product, found that the flow of trade with the country in which the branch was located was so unsteady as to render the plan unprofitable, and it was therefore abandoned. In several instances, protective tariff rates unfavorable to their products was given as the reason for withdrawing foreign branches. Local competition from national or foreign sources may close a market to the exported products, and an exporter of mining machinery withdrew a foreign branch on the exhaustion of mineral resources. Several firms reported the closing of foreign branches because of exchange rate difficulties.

Undoubtedly additional reasons could be cited, particularly if the experiences of concerns which withdrew from foreign countries during the post-War depression were revealed. The survey was conducted only among exporters which at present employ the branch method of foreign distribution and in no event can be considered exhaustive.

FOREIGN BRANCH OPERATION [2]

One of the present writers has described the problems of foreign branch operation as follows:

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[2] Roland L. Kramer, in *Export Trade and Finance*, Vol. XIX, No. 16 (October 13, 1928), p. 11.

The problems of administration and operation involved in foreign branch distribution are viewed by many exporters with apprehension. A feeling exists, and probably with justification, that a foreign branch calls for the placing of too much responsibility in a location which may be thousands of miles away in a foreign country. Greater confidence seems to exist in natives of foreign countries who act as agents or in American concerns which handle foreign sales. This feeling would appear to run counter to human nature for in other matters greater faith is reposed in ourselves for the accomplishment of something rather than intrusting it to other people. Nevertheless the problems appear more formidable than in the case of domestic branch operation.

The Foreign Branch Manager.—The selection of the manager is a deciding factor in foreign branch operation. It is to be assumed that the manager will be selected with the greatest of care. If he is a man of unquestionable ability and integrity, there is no reason to doubt that proper administration will be provided. Unless he is such an individual and can therefore command the respect and confidence of the home officials, he is in no sense a candidate for the position. When selected, he is worthy of unstinted support in the prosecution of his work. There is no reason to fear that he will be any more of a failure than some other administrative officer in the concern. The right man will always measure up to any responsibility.

Such men exist and usually prospects are to be found within the ranks of the company. In case the work of the branch is to be largely technical in nature, then an expert along these lines is certainly to be selected. When foreign factories are established, the importance of technical skill and scientific knowledge is readily grasped. If sales and promotion work are paramount and yet the product is technical in nature, then mechanical knowledge plus sales ability are needed. In the case of a resident foreign manager for a buying branch, a man who knows products, markets and technique is sought. Whatever the demands, a desirable individual can undoubtedly be located.

It is often stated that a branch manager must be an American citizen and, of course, the assistant manager also. Personnel which ranks below the managerial staff is rarely recruited from the United States, since efficient and economical clerical help is available abroad.

On investigation it is found that some foreign traders express no preference as to the nationality of the manager, while still others employ natives exclusively. As one exporter expressed it—"Americans may become easily dissatisfied and leave, as well as taking time to acquire what the natives know."

Companies which have developed a widespread branch house system sometimes provide direct foreign supervision in addition to the manager. When a certain trading area is well organized through a chain of branches, some authority higher than the manager may be placed in the field. One internationally known manufacturer of business machines, for example, divides the world into four sections, *viz.:*

United States and Canada, Latin America, Asia and Europe. A Supervisor is placed in each section and he is in charge of the work of all branches located there. In Europe, a European Manager is at the head, and in each of three subsections, a supervisor is appointed. An indication of the extent to which authority may satisfactorily be placed abroad is drawn from the fact that the European manager possesses about the same power in his territory that the home office exercises in the other sections. In other words, the home office is literally transferred to the foreign territory in this instance.

Administration of a Branch.—From a survey undertaken, it appears that with the exception of financial control and general, broad supervision over other matters, the foreign branch manager is placed in complete charge of the business committed to his care.

Financial control is provided by various means. Many concerns keep a duplicate set of books in the home office, so that an accurate picture of branch operation is at all times possible. Specified sums of money are provided periodically until the receipts of the branch make this unnecessary. All expenditures are at stated intervals to be supported by vouchers and regular auditing of accounts is usually practiced. One large exporter states that his own corps of accountants travels from branch to branch, adding significantly that "in every instance they are Scotchmen." Still other concerns exercise no detailed supervision but allow the manager almost complete discretion in the handling of funds.

Branches may or may not be placed on a quota basis, as is usually the case in agency operation. It appears from the survey undertaken that quotas are the exception rather than the rule. A rigid quota is often a disturbing factor in business and it only adds more difficulty to branch operation. By adjusting the methods of compensation, the same net result may be obtained and in a more judicious manner. In addition to the salary usually paid to foreign branch managers, a sales commission provides the incentive to increase volume. Even without this attraction of immediate personal gain, the desirable manager is the type who strives to make a good showing for the work intrusted to him. The American business man we are inclined to think about, is the one who always is striving to beat last week's, last month's, last year's record.

Since a manager is not synonymous with a salesman, there is a factor of economical and efficient operation also to be considered. The two go hand-in-hand in branch house management. Increased sales and accordingly commissions are urged, but efficient management is in no sense secondary in importance. One company insists that branch managers purchase twenty per cent of the capital stock of the branch company. This is one way of guaranteeing a well-rounded interest in the business.

Closely associated with financial management is the credit problem. Close supervision over credits is often exercised by the home office.

The same may be said as to advertising, particularly the expenditures authorized for this purpose. In advertising it is usually found that the branch handles all the details of the program, engaging the space, supplying copy and cuts (which often may be made up in the home office), checks the insertions and pays the bills. All of this may be done under home office supervision over expenditures, advertising policy, types of media, etc., but the operation of the plan is left in the hands of the branch.

Prices are not as generally supervised by the home office as are some other matters. To exercise too rigid a control over selling or buying prices would at once destroy a decided advantage of operating through a branch. Flexibility, if at all desired, is to be found to a large extent in the management of prices. Considerable discretion therefore as dictated by local conditions is often placed in the hands of the branch manager. If price control is exercised by the home office, the cables are probably kept rather busy.

In this connection it is of interest to note the bases on which goods are billed to the branch. In some cases consignments are made and the branch remits when the goods are disposed of. Another method often followed is to sell goods to the branch at wholesale or at a special branch discount.

It is to be understood that in all matters involved in branch house operation, the manager is given considerable voice in the determination of policies. Final decision does not rest with him in all matters, but if he is in a true sense the branch manager, his opinion as guided by his dual knowledge of the market and the company, is of inestimable value. Close coöperation will, as in other plans of distribution or purchase, spell the greatest degree of success.

FOREIGN LEGAL REQUIREMENTS GOVERNING THE ESTABLISHMENT OF BRANCHES

Generally speaking, an American company which proposes to conduct its affairs in a foreign country through the medium of a branch is free to do so under the same regulations and subject to the same rights and restrictions as apply to domestic concerns. Certain formalities are to be complied with, however, in order that the branch may procure a legal footing. In some nations a branch is freely granted the right to organize and operate without first obtaining governmental sanction. In other countries this is considered as a privilege rather than a right, and official permission is required before the branch can begin operation.

From a legal point of view, branches may be considered as of two types: (1) a branch of the domestic (United States) company or of a subsidiary of the domestic company and (2) a fully incorporated company under local foreign law. The legal requirements for domiciling a concern in foreign countries are the same for the branch of either a parent or a subsidiary company. The latter may be organized specifically for the purpose of transacting business in a particular foreign country. For example, the Cross and Armstrong Company, Inc., may, for its Brazilian business, organize the Cross and Armstrong Company of Brazil, Inc., but this does not alter the legal requirements which are encountered in domiciling the company in Brazil.

In order that a concern may obtain legal footing in a foreign country, a defined procedure is to be followed and certain documents are generally required.

1. A certified copy of the articles of incorporation or charter and of the company's by-laws are to be filed. In some countries, the right is reserved to alter any provisions in these documents which are considered to be contrary to local law or public interest. These steps serve to guarantee that the concern is duly organized and operating at home, without which domestication abroad would not be permitted. Some countries require, in addition, a certificate attesting to the fact that the company is actually engaged in business and is in good standing. This may be accomplished in some instances by filing a copy of the latest balance sheet.

2. A certified copy of the resolution of the board of directors authorizing domestication in the foreign country is to be filed. There should generally be included in this resolution a statement of the amount of capital which is to be devoted to the branch in that country.

3. A certified copy of the names and addresses of directors, officers, and stockholders is to be filed and some countries require also that this list indicate the amount of stock held by each.

4. A power of attorney in favor of a resident of the foreign country who is granted authority to petition or apply for domestication and on whom all legal processes may be served is to be filed. An additional power of attorney may also be required for the branch manager, setting forth the specific powers delegated, including the right to sue and be sued, to maintain a bank account in the company's name and to represent the com-

pany's interests in the foreign country. Such fees, taxes and deposits as may be required by law are to be paid.

Occasionally, a different treatment is accorded in case reciprocity with respect to such matters is maintained between the foreign country and the United States. For example, Argentina requires the filing of an extract of the corporation laws of the American state in which the company is incorporated, showing the rights granted to foreign companies to register, be domiciled, and to function in that state. In case the laws do not allow foreigners the same freedom as permitted under Argentine law, it is necessary in that country for a concern seeking domestication to apply to the executive for such authority. This prolongs the negotiations to six months, instead of the usual period of one month.

In many countries, the law requires that certain additional steps be taken in order that documents of the above description might be legalized. It may be necessary to provide a certificate of the secretary or presiding officer of the corporation; a certificate of a prothonotary, county clerk, notary public, or state secretary; and authentication by the consul of the foreign country located in the jurisdiction of the home company. These formalities serve to guarantee the genuineness and accuracy of the documents which are filed.

After all the steps have been complied with, it is often required that a notice be published in the official gazette or daily press in the foreign country, announcing the intention of the company to open a branch there. Following this, an official decree in some countries grants to the branch the final authorization to commence operations.

All of these formalities are not required in every country, but most of them are to be found in the laws of foreign countries governing the domestication of alien concerns. Particularly in countries where the strict code system of law prevails is there likely to be a maximum of qualifying steps and formalities.

Instead of domesticating the parent or subsidiary company abroad, a branch may be established by creating a corporation under the laws of the foreign country.[3] In this case, the exporting concern is subject to the same rules and regulations as govern the establishment of local corporations. Some differences may be found in case a bank or insurance company is formed by foreigners.

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[3] *See* Chapter XXXIII.

The question frequently arises as to the relative merits of branch organization by means of domestication and foreign incorporation. While this problem is necessarily one to be considered for each particular country, certain general considerations may be presented. In some instances, foreign incorporation is preferable. In Brazil, for example, a foreign concern is admitted only upon governmental consent. This may be withdrawn at any time, or provisions of the company's charter may have to be changed, according to the action of the government. Concerns incorporated in Brazil do not face these possibilities. In practice, however, there is slight probability that the government will contest the admission of a foreign company.

If foreign capital is to be solicited, and if foreign management of the concern is desired, incorporation abroad is generally preferable. The expense of incorporation is no greater and sometimes considerably less than the expenses incurred in domestication.

In Australia, the foreign company is required to appoint a resident of the state in which the branch is registered to act as the official agent of the company. Among his duties is the filing of an annual statement disclosing the entire business of the concern. As this might be undesirable, the exporter may prefer to incorporate locally.

Taxation difficulties may arise because there is no clear-cut segregation of the business of the branch from the entire overseas transactions of the parent company.[4] The question arises "How much was earned in the foreign country?" Unless the business of each country is segregated by means of separately incorporated branches, this difficulty is likely to occur.

In countries where foreigners are prevented by law from acquiring property, a locally incorporated company is the only feasible means of conducting extensive branch operations. This policy is enforced in Norway and Sweden for the purpose of protecting the natural resources of the country from foreign aggression and control.

Certain factors, on the contrary, favor domestication. The registered foreign branch is entirely controlled from the state

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[4] *Ibid.*

(or country) of its origin. If incorporated abroad, however, the law requires that annual meetings, directors' meetings, and other business gatherings be held abroad and home control is thereby largely relinquished. Moreover, the powers and duties of the branch manager may be clearly set forth in the power of attorney granted him, but if local incorporation is adopted, full control must pass to the officials of the foreign concern. In some countries, an added sense of security results from domestication. This is particularly true in countries where extraterritoriality still exists, and in Cuba the right of the United States to invoke diplomatic intervention under the terms of the Platt Amendment is considered an advantage that a foreign company possesses over a locally incorporated concern.

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CHAPTER XVIII

EXPORT ADVERTISING

In the keen competition found in the world's markets, the American exporter is aided, as perhaps are the exporters of no other nation, by the sales-producing force of advertising. Skillfully planned and directed publicity will overcome prejudice, establish new habits, satisfy wants, build good-will and thus multiply sales and lay a foundation for permanent and profitable business.

As a sales method in itself advertising is rarely used; it is in its stimulating effect, in coördination with proper sales effort, that advertising is of greatest value, whether at home or abroad. An individual or national prejudice may react unfavorably upon the business of an American concern in a foreign country and this may be eliminated by persistent and aggressive advertising, but the sales organization must be there to clinch the business. The building of good-will perhaps best manifests the power of advertising. The trade-mark, slogan, trade name, etc., are constantly placed before the eyes of prospective customers, and the attention they finally command soon emerges into interest, then desire, until an actual customer has been produced. As the trade of the world expands, this element of good-will blossoms into increased trade for the advertiser. Moreover, the closer commercial relationship which is developing throughout the world establishes a firmer foundation on which to build publicity. Greater knowledge is more easily obtainable and many of the difficulties of the past have been eliminated.

A survey of export advertising methods can be only general in character since the specific conditions which currently affect any particular method or locality are constantly changing. It is generally felt that the basic conditions of advertising are the same throughout the world, but that surface and mechanical differences are so great that thorough consideration of export advertising as a distinct problem is vital.

EXPORT ADVERTISING MEDIUMS

Publication Advertising.—Among the mediums useful in export advertising are the various export-trade papers issued in the United States for circulation in foreign countries. They are read by business men abroad and are best considered in connection with direct advertising—reaching prospective importers and dealers. Some of these journals have established a wide reputation for authoritative presentation of up-to-date conditions in many lines of activity, particularly industrial. They are of greatest value in reaching dealers located in the more undeveloped areas of the world where local reading matter providing current information of this character is not readily to be had. Some of these export-trade papers are mailed free of charge to potential buyers of American goods, thus widening their advertising appeal. It is seldom to be expected that this medium can be of value in indirect advertising (reaching the consumers), as it is little more likely that they would read such publications than that the average American would follow the columns of the *Iron Age*.

Export-trade papers may be of a general or of a specialized type. The oldest in the field, such as *American Exporter, Dun's International Review,* and others, are general in their appeal but they maintain departments for special lines of goods, as hardware, textiles, automotive products, electrical goods, and others. The value of such papers for export advertising purposes is deprecated by some on the ground that the publicity afforded is smothered with other ads, frequently of a competitive nature. Since there is no specific appeal, it is felt that the advertisement will miss the mark. In considering such objections, it should be borne in mind that in most of the countries where export-trade papers enjoy their widest circulation there are few specialized publications and business men have come to depend on such foreign journals for current business data. Moreover, the establishment of commodity departments or sections has provided at least a semblance of specialization in their appeal. Foreign importers and dealers look to export-trade papers for suggestions as to new lines and for developments in old ones.

The specialized class or technical journals available in some lines for export advertising are also not to be overlooked as an advertising medium for goods of the same or complementary type. Examples of such papers are, *El Automovil Americano, Ingeniería Internacional, Automotive Industries, La Hacienda,* and others.

There is a third type of export-trade paper, combining in many respects the features of the other two and also partaking of the nature of a house organ. They are published by firms of international merchants and they circulate widely in the foreign territories in which these concerns have a special interest. In appearance they are export-trade papers and in control they are house organs, although not considered as such. Examples of this type of magazine are the *American Export Monthly* and *Exporters and Importers Journal,* published by Arkell and Douglas, Inc., and Henry W. Peabody and Company, respectively, both of New York.

It is quite certain that journals of the export-trade type will be successful in producing inquiries for goods and in initiating trade relations which may subsequently develop into sales or dealer connections. This is an evidence of the direct advertising value of these papers. Trial orders may, though infrequently, be received, especially in novelty lines. Moreover, there is an advertising value in the continuity of keeping the trade-mark or name of the manufacturer before the readers of these journals, some of whom are likely to be potential customers.

Export-trade papers sometimes perform auxiliary services for concerns who advertise in their columns.[1] Translation from or into foreign languages of correspondence arising from advertisements which they carry, credit reports on foreign buyers, lists of prospective customers arranged according to trade and country, and personal advice on problems encountered in the conduct of foreign trade are all included in the services offered gratuitously, depending upon the amount of the contract, to advertisers in the pages of export-trade papers.

Among the best and most certain methods of reaching the buying public in any land is through the printed pages of its daily newspapers. There is no civilized part of the world which does not boast of its newspapers, and the effectiveness of this medium for advertising purposes may in many instances be compared favorably with its position in the United States. Perhaps it might safely be maintained that newspapers provide an even greater relative value for advertising purposes abroad than in this country, or any other of like development. When the literacy of a people is low, the consuming population for most goods is confined largely to those highest in the economic and social scale. These are generally intelligent and literate and they all read the one or two prominent dailies published in their city (and sometimes country). It therefore follows that an announcement in such publications will reach almost the entire effective buying public.

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[1] *See* Chapter XI.

Magazines which make their appearance weekly or monthly are also to be carefully considered by the export advertiser. These may have a wide circulation throughout the country in which they are published, and in some instances, as in the case of feminine interests, they provide the only means of special appeal. Generally, however, magazines in foreign countries are confined in their circulation to a certain locality where they may be of considerable, although restricted, advertising value. With the general lack of specialized means of appeal, the daily newspaper constitutes the one important advertising medium in most overseas lands.

Several serious difficulties confront advertisers in most of the foreign publications. It is generally admitted that in many foreign countries advertising is about in the same position as was American advertising at the beginning of the twentieth century. This is not true of all publications or of all countries but the exporter is almost certain to find a different appreciation of advertising than that prevailing at home. It therefore behooves him to exercise care and discretion in the selection and handling of these media for export advertising.

Among the most irritating problems encountered is (1) the difficulty of ascertaining circulation figures. There is seldom to be found abroad any complement of that facility which is widely known in the United States, *viz.:* the Audit Bureau of Circulation. The circulation claims of foreign newspapers or magazines may or may not be accurate, and in any case there is no standard method of computing circulation such as we have at home. (2) Further difficulty is encountered in ascertaining the class of readers. Claims are frequently made that such and such newspaper or magazine is read by everybody in the country, and that it therefore is the ideal for advertising purposes. Accurate analysis of the class of readers is difficult, but approximate determination is generally easy and quite satisfactory. (3) Newspapers in foreign countries are usually pronounced in their political views and the class of readers, *e.g.*, liberal, radical, progressive, labor, etc., may be determined from this analysis. The editorial views of some newspapers would preferably eliminate them from consideration for advertising purposes by an American exporter, particularly in the case of those which constantly deplore and assail "American imperialism." A change in political fortunes, moreover, may react unfavorably on advertisers in newspapers which temporarily have fallen out of favor. By confining attention to the publications which have been tried and not found wanting, it is quite unlikely that complications arising from political policies will be suffered.

(4) Difficulty is also encountered in ascertaining rates and space. It is in this connection that the greatest vigilance of the export advertiser is required. The one-price system is an American institution and has yet to win popularity throughout the world. There is alternate haggling and bargaining in dealing with publishers, the same as in dealing with retail shopkeepers. There is, moreover, a fiction of logic for the quotation of higher and variable rates when American clients are being considered. It appears that in the past foreign publishers have too frequently suffered by reason of delayed payment or unpaid bills on the part of exporters who became displeased because of "inconsequential" matters, such as the location of the advertisement. The exporters have usually been right according to the agreement but to the foreign publisher, these matters, although of grave significance to the American, are often considered to be of little importance. As a result, it is almost impossible for American manufacturers to obtain from foreign publications the rock-bottom prices for inserting advertisements. Prices for space are always high enough to allow for the payment of commissions to agencies in case they should place the contract and in the case of the American he "is often charged, not 10 or 20 per cent, but 40, 60, or even 80 per cent more than anybody else."[2] Further, in the matter of space, there is no assurance

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[2] D. L. Brown, *Export Advertising*, p. 169.

whatever that the position agreed to and contracted for will be observed by the publisher, as this is of no appreciable interest to him and may be interfered with by editorial policy or other conditions. A careful policy of study and checking should be adopted by the exporter when using foreign publications as advertising media.

In addition to the native press, there are the newspapers and sometimes magazines of other nationalities published in foreign countries. Wherever the foreign colony is sufficiently important, there is generally a newspaper which, for advertising purposes, is of value in appealing to these people. Such media may possess even a wider appeal when it is considered, for example, that publications in English are read by the British, Americans, and many educated natives.

Direct-Mail Advertising.—Direct-mail advertising, in its accepted sense, consists of all forms of publicity sent by the advertiser to prospective customers with the intention and hope of thereby consummating a sale. In its most extended use, it constitutes mail-order business; and in its employment by the exporting manufacturer or export house it provides the mobile, flexible counterpart of publication advertising. Direct-mail advertising consists principally of various forms of printed matter transmitted through the mails, perhaps the most important being letters.[3] Other forms of publicity that may be used in direct-mail advertising are catalogues, house organs, booklets, and a large number of miscellaneous forms such as calendars and blotters, which are so well known in the United States.

Of more general interest and of greatest value in this subject are catalogues for the export trade. In the preparation of this advertising medium many problems are encountered, most of which are also met in varying degrees in other forms of direct-mail publicity. An export catalogue should provide the sales force necessary to sway the reader into attention, then consideration, conviction, and finally action. It has to tell its own story and answer all manner of questions or objections that might be raised and otherwise go unchallenged. The catalogue cannot argue and convince as does the salesman—it tells its story once and closes its cover.

The value of catalogues in foreign trade is well recognized but their preparation in such manner as to be of the greatest effectiveness is not always so clearly understood. Some of the peculiar export problems which arise in connection with catalogues will be briefly taken up.

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[3] For a discussion of sales letters, parcel post, etc., *see* Chapter XX.

As is true of any other similar publication, the export catalogue should be attractive in appearance and design. This is probably the first consideration in the construction of a catalogue, as attention is thereby attracted. Art work and illustrations are highly desirable throughout as they provide a much clearer means of identifying the articles described. This factor is more significant when it is realized that many countries have not developed into an industrial society and the people cannot grasp word pictures of technical products as readily as can a more mechanical people. Action illustrations are more convincing, at home and abroad. For best results, it is generally a wise policy to have art work performed in the United States.

Code words should be printed in connection with the articles and parts of articles shown in an export catalogue, thus facilitating and economizing on cable communication. Export catalogues may indicate the price of each article portrayed, particularly if the catalogue is used for trade rather than for consumer distribution. If intended for consumer advertising, prices are best omitted by an exporter and inserted, if at all, by overseas representatives. Similarly, discounts should be omitted from the export catalogue. These are generally shown on a separate sheet which may also indicate such data as shipping weights, railroad freight rates in the United States, ratings of different articles, and other matters for ready reference. The necessity of carefully guarding the sanctity of discounts is enhanced when catalogue distribution to more than one class of foreign distributor is contemplated. It is decidedly unwise to allow the retailer to know what the wholesaler pays, and the wholesaler to know the cost of goods to the importer (if there be a separate function here), and, of course, the consumer is uncomfortable if he is familiar with the prices paid by the retailer. If it is possible, in view of the number of articles listed in a catalogue, to quote discounts in one of the letters written in the course of the correspondence leading up to a sales or to an agency connection, there is an individuality to the transaction that is lacking when a printed sheet is used.

When prices are shown, it is preferable to indicate list prices in United States gold currency.[4] Even the use of the dollar mark ($) should be avoided unless a clear indication is made in the catalogue that United States gold currency is intended. The reason for this is that many nations of the world employ the dollar sign and accordingly associate different meanings and values with it. In some cases, it may be advisable to quote prices in a foreign currency, especially when British sterling is employed in domestic as well as in overseas transactions. Generally speaking, safety is promoted by adhering to "U.S.G." in price indications and when, in view of local distribution, prices in local currency are to appear in print, they should be inserted by agents or branches abroad. Another alternative is provided by showing in the price list the foreign equivalent acceptable in lieu of the dollars named. This foreign equivalent is not the current exchange value of the foreign currency, but is generally somewhat higher in case the exchange is depreciated, in order to protect the exporter against loss due to fluctuations. Only with currencies of at least fair stability is it safe to adopt this practice.

Accurate and clear descriptions are also essential in an export catalogue. While it is tiresome and expensive to resort to unnecessary repetition, there can never be an overstatement of factual and essential data. The catalogue, in anticipating all sorts of questions that may occur to interested readers, should present weights, measurements, capacities, ratings, packing, equipment, description, and other essential data. Moreover, the reader of the catalogue is most likely to be familiar with centimeters, kilos, liters, hectares, kilometers, etc., instead of their American counterparts but not equivalents. The prospective buyer pays unloading and/or interior transportation charges, import duties, storage, and other sums which may be assessed on the metric basis of weight or measurement.

Aside from such data, which might be termed scientific, there should be placed in an export catalogue information of a utilitarian nature and of a personal nature. By utilitarian is meant the functions or performance of the product—action in pictures. This requires furthermore that the article be portrayed in an environment in which it is to be found in everyday life. All the requirements of art for art's sake may be fulfilled, but certainly the commercial artist finds it essential to impart to his work that setting and action which help in getting an article "across." Information of a personal nature relates to the standing, age, reputation, etc., of the manufacturing or merchandising concern issuing the catalogue. This may be established by the use of cuts of the factory or office building of the exporter. The general tone and quality of a catalogue may be expected to bespeak the character of the exporter and support the reputation he endeavors to establish.

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[4] For a discussion of prices, *see* Chapter XXXVI.

To prove of any value whatever, it is rather naïve to state that a catalogue must be printed in a language which is understood by the prospective readers. Ordinarily, translation does not present a serious problem, although certainly one deserving of close attention. In the case of catalogues, however, there are usually many technical terms for which foreign words may exist only in a colloquial, and not a literal sense; or expressions may be entirely lacking. In the latter case it is necessary to coin new words or, as is ordinarily preferable, to employ an expression in the foreign language conveying the correct idea. Taking the locomotive business as an example, the Spanish-speaking person understands a "little house" (*sala*) to be the "cab" of a locomotive; and a "running cat" (literal translation) means to him what "traversing jack" conveys to English-speaking people. Expert assistance is, therefore, needed to properly render technical expressions into foreign languages. The logic of this becomes evident when, taking the hardware business as an example, the reader is asked to identify the following terms which are used in his own language in every hardware store: escutcheons, drift plugs, tap wrenches, calipers, trammel points, rabbets (spokeshave). The citizen of a country less developed mechanically and industrially than is the United States, is probably unaware of the existence of many technical articles, and frequently his language has never found it necessary to incorporate them. The best translation formula in such cases has been found to be a combination of the man who knows the article and a man who knows the foreign language. The language barrier to a clear understanding of technical terms is best overcome by this care in translation, and by the liberal use of photographs and of numbers associated with the pictures. Sometimes the English and foreign languages appear side by side offering assurance of clear understanding.

It is not to be assumed that the export catalogue is always a mere translation of the domestic catalogue. The large amount of additional data appearing exclusively in an export catalogue indicates the necessity of recomposing, if not rewriting, the domestic catalogue in order to make it satisfactory for overseas distribution.

Due to the host of professional and amateur catalogue collectors scattered throughout the world, it is highly advisable to adopt a cautious policy of distribution. Free distribution to a carefully selected mailing list is one means of placing the catalogue only in the hands of persons who are likely to be interested in the product. Requests for copies of catalogues are usually complied with if sales probability is discernible. It is also advisable to place copies of catalogues in the hands of American trade and consular representatives abroad, chambers of commerce, etc., where possible buyers may be expected to direct their inquiries.

The high value imputed to catalogues as an advertising medium of real selling force warrants the exercise of the greatest care in preparing, printing, and distributing catalogues designed for use in export trade.

Dealer Coöperation.[5]—Of special significance in the groups of export advertising methods come the whole range of publicity methods included in the term dealer coöperation. In this group American ingenuity, ever recognized as paramount in the field of advertising, is constantly devising new schemes in accordance with the growing appreciation of a distinctly American merchandising formula, *viz.:* helping the dealer dispose of his goods. Time was when the sale to the distributor or storekeeper terminated the interest of the seller until the next buying season came around. It was up to the buyer to push the sale of the goods and the ways and means of so doing were strictly of his own creation and promulgation.

Modern merchandising practice never allows the seller to consider his work completed until the dealers to whom he has distributed the goods have received assistance in their sales efforts.

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[5] The section in this chapter devoted to dealer coöperation was written by Ralph F. Breyer, Ph.D.

The entire purpose of dealer coöperation is to help the dealers to sell; and this is guided and controlled by the four fundamental factors of good retail merchandising, applicable all over the world: (1) attractive store front and window display; (2) proper inside arrangement of advertisements and goods immediately to establish a sales appeal; (3) teaching (or creating enthusiasm in) the dealer to back up the product on every possible occasion; and (4) teaching the dealer to engage in publicity work of his own for the purpose of drawing customers who might otherwise be entirely missed.

Dealer coöperation is generally considered as comprising two distinct classes: (1) those efforts which focus directly upon the distributor himself, known as "sales promotion," and (2) those which are used directly on the distributor's customers, termed "dealers' helps." Instruction on salesmanship sent to the dealer would be an example of the first class, whereas samples forwarded to the dealer to be distributed by him to his customers would be a form of dealers' helps. While manufacturers need to coöperate with American export houses, when foreign trade is conducted indirectly, the latter are supposed to provide the expert selling knowledge and organization and hence dealer coöperation has little significance here in the sense used in this chapter. Export houses using foreign agents must provide considerable coöperation with them. But the term dealer coöperation is ordinarily confined to the efforts of manufacturers to assist their foreign dealers in marketing the product.

All efforts to make the distributor himself a better dealer come under the head of sales promotion. Much of this work is done by means of letters. These may contain suggestions on salesmanship, sales arguments for the exporter's product, information on how properly to demonstrate or display the product, proper methods of stock-keeping, importance of proper accounting systems, suggestions for getting new business, information on bids just out, methods of training dealer's salesmen, store layout, compensation of salesmen, and examples of how different prospects have been sold. Matter of this kind, if properly presented, is certain of improving the dealer. Much educational work of this nature is sometimes possible through personal contact.

The foreign salesmen or "missionary" salesmen who work with the distributors' salesmen can help the dealer solve many of his distribution problems and pass along sales ideas to him. At times, members of the dealer's staff come to the United States and spend some time in the manufacturer's plant and on the road, learning at first hand about the product and its sales problems. Frequently part of the expense is borne by the manufacturer.

Printed matter such as folders, booklets, and the like, well illustrated, may be used to educate the dealer in the history of the company and the features of its product, and also present interesting market views and stimulating sales stories. Sales contests among overseas distributors, when carefully arranged, serve to stimulate greater effort. Occasional dealer conventions, with educational and inspirational addresses and discussions, with perhaps a motion picture showing the processes of production, good foreign window displays of the product, and the product in use abroad, have been tried with western European dealers with success. House organs are not widely employed but are among the best methods of sales promotion. In them may be presented a constant procession of ideas and suggestions which would otherwise be more disjointedly handled or entirely neglected. Moreover, prestige is earned by the publication of a well-ordered, authoritative house magazine. One American manufacturer has gained an enviable reputation for himself by the fact that his magazine is widely recognized as authoritative.

Forms of dealers' helps include letters which are not only used to convey a good deal of sales promotion matters, but are also important as sales letters for the use of dealers. Frequently, the exporter will make up quantities of these and send them to his dealers who address them, sign them, and mail them to their own customers. At times the manufacturer sends a first letter to the dealer's customers direct and under his own signature and the follow-up letters are sent out by the dealer in his name. Sales letters have been found to be one of the most effective kinds of dealers' helps.[6] Samples of the product to be used by the dealers have given exceptionally good results. Sometimes the names of the customers of the distributors are placed on each sample. They are then sent to the customers or the latter may be asked to call at the dealer's place of business for them. Often the samples are used for counter, show-case, and window display.

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[6] *See* Chapter XX for a discussion of export correspondence.

Store and window displays are a popular form of dealers' helps. Attractive displays of the product in richly designed display cases, handsome store cards, posters, cut-outs, and the like are used for counter, shelf, show-case, and window display by the dealer. They are particularly effective in the shopping districts of the larger foreign cities. Manufacturing exporters have found that identification supplies are welcomed by dealers. Metal and painted signs and electros featuring the dealer's name along with the exporter's product are extensively used. Foreign automobile dealers maintain that the road signs sent them by American manufacturers have been particularly useful. Booklets, pamphlets, folders, blotters, souvenirs, and the like, as well as lantern slides and films are supplied to foreign distributors to be distributed or shown to their customers.

Problems in Handling Dealer Coöperation

The success obtained with this export merchandising instrument, as with all others, varies directly with the intelligence brought to bear upon its application. Here, too, it is difficult to lay down any general rules. However, the major difficulties can be pointed out and suggestions offered. The actual solution in a particular case will depend, of course, upon all the surrounding conditions. It is safe to say that in all cases dealer coöperation should be carefully synchronized with the entire marketing program. It must tie-in with the sales arguments, the advertising campaign, the service policy, and distribution aims. Furthermore, the various forms of dealer coöperation should supplement each other. Having made certain of this, it is important that all sales promotional devices and dealers' helps be carefully worked up to suit the requirements of the foreign distributor. It is the quality, not quantity, of dealer coöperation that measures its success.

It pays to consult the foreign dealers when constructing dealers' helps, as this gives some assurance that they will meet market requirements. Then it becomes necessary to "sell" the dealers on the value of dealer coöperation. There is no direct method of doing this for sales promotional matter. The average foreign dealer will absorb just as much of this as proves interesting and timely. This requires considerable knowledge of each individual foreign dealer. Printed matter and letters should be of attractive material and should contain a valuable message, clearly and fully propounded, in the language of the dealers. Contests, conventions, etc., must be well organized, timely, and of obvious profit to the distributors. In this way only can foreign houses be induced to make full use of sales promotion material. They must also be convinced of the value of dealers' helps before any success can be had from this source. And foreign distributors not so accustomed to American marketing methods require more education in this respect than dealers in the United States. However, once they are persuaded of their value they are more likely to make good use of them than domestic merchants, because they are not flooded with such devices as the latter often are. Simplicity, adaptability, attraction, value, and individualization of dealers' helps are bound to catch the dealer's interest, for he can readily see their customer drawing-power. A letter from the export manager explaining the use and value of this material, including illustrations of its use in other foreign markets, will help. Above all, the foreign salesmen must coöperate to induce the distributors to make proper use of it. This necessarily implies that the salesmen themselves must be thoroughly convinced and that they are enthusiastic over the dealers' helps. Often the only way to get adequate window displays for the product is for the salesman to roll up his sleeves and set up the display. The dealer is then in a position to check results.

Another problem about which there is the widest difference of opinion is whether dealers' helps should be given free (no charge is made, of course, for sales promotion matter). The usual arguments for and against free distribution of dealers' helps are: *For:* (1) the material is used to promote the sale of the manufacturer's individual product alone and not *all* products handled by the dealer; (2) when other exporters give helps free, competition compels others to do likewise; (3) just because a few abuse the privilege of obtaining free dealers' helps is no reason why all should be charged for them; (4) the trouble of small and numerous allowances and collections involved in charging for this material; (5) it does promote dealer good-will. *Against:* (1) it discriminates between dealers as all must pay the same price regardless of whether they use dealers' helps or not; thus some pay for what they do not get since, of course, the cost of dealers' helps must be included in the price charged for the products of the exporters, even though the helps are distributed free, *i.e.*, without extra charge; (2) if dealers think they obtain this material free they will order excessive amounts and neglect its proper use; it is more straightforward to let the dealers know exactly what such assistance costs them by levying charges therefor.

Ordinarily, expensive dealers' helps are charged to the dealer at cost price, or perhaps less. The inexpensive ones are distributed free. In any event, where they are rather costly it is wise to distribute them only to dealers who make requests for them upon cards sent them by the manufacturer.

Finally, it should be remembered that coöperation should not be confined to the matters discussed above but should pervade the entire relationship of the manufacturer with his foreign merchants, including packing, margins, price protection, guarantee of product, credit extension, and other matters.

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CHAPTER XIX

EXPORT ADVERTISING (*concluded*)

Some additional methods of export advertising to be taken up at this point may also fall under a more specialized grouping, but their more general use warrants their mention here.

Motion Pictures.—The use of commercial cinema films, either for private or for public demonstration, is far more common in foreign countries than in the United States. It is now almost impossible to run an advertising film in connection with a cinema showing in this country, but aside from the largest centers, these films are generally quite welcome abroad. As comprehensive and centralized distribution is not generally available, the distribution of commercial films is best undertaken by the foreign dealer. In some instances, advertising agencies are in a position to reach syndicates abroad that are willing to obtain certain films free of charge for the purpose of renting them out to theaters. Sometimes salesmen are provided with portable projecting machines for making private or public showings of films. The United States Government, through the Bureau of Foreign and Domestic Commerce, is greatly interested in this method of publicity and actively endeavors to arrange foreign showing of films that are descriptive of American life and industry.

Commercial Fairs and Exhibits.—Commercial fairs and exhibits, held at regular intervals in many foreign cities, afford the exporter a novel method of publicity. Such events are far more common and more largely attended than in the United States, and in many instances they have attained a high reputation. By engaging space at a fair, distributing literature, and providing demonstrations, it is often possible to obtain good distribution connections abroad.

Of late years more attention has been paid to commercial exhibits. As a plan of developing an interest in the products of its manufacturers and producers, some governments have established exhibits of various kinds. Among the most prominent of these is the British Industries Fair which is held annually at London, Birmingham and Glasgow. The Canadian National Exhibition held each year at Toronto is also wide in scope.

Among the various private and old-established fairs are the Leipzig sample fairs which date from the Middle Ages. They are held each year in the spring and fall and over 175,000 commercial persons visit the spring fair alone. The International Sample Fair at Lyon, first held in 1419, annually attracts world-wide attention and the same is true of the sample fair which has been held at Frankfort-on-Main since the year 1219. Many additional exhibitions are held in European cities as well as in other places in the world. In recent years, as sales efforts have become more direct, American concerns have taken more interest in these events as exhibitors. Formerly, they were visited almost exclusively by import buyers who find a wide display of foreign articles from which to make selections.[1]

Outdoor Advertising.—Some forms of outdoor advertising have already been described in connection with dealers' helps, and, generally speaking, this is probably as far as it will be found wise to go in the direction of outdoor advertising in foreign countries. With few exceptions, a chaotic condition exists with relation to billboards, electric or illuminated signs, and posters. Rarely is there any centralized ownership of outdoor advertising facilities, rates are not fixed, services are indefinite or unknown, and municipal or other ordinances sometimes hinder their employment. In foreign cities where such conditions do not obtain, outdoor advertising is managed with the same ease and it produces the same results as in the United States. Long-range supervision is out of the question and branch house, dealer or agency control over outdoor advertising of all kinds is essential.

In some ways foreign countries have developed further than we have as in the case of street-car or bus advertising. In some countries it is the custom to plaster public vehicles inside and out, front, back, and sides, including even windows, with car cards or transparencies. Light standards are also equipped in some countries for carrying advertisements. It is true, however, that electric signs are nowhere as widely to be found as in the United States and it is generally admitted that no country has succeeded quite as well in effectively concealing landscapes behind billboards.

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[1] For detailed description of fairs, see *International Fairs and Expositions*, Trade Promotion Series No. 75, Bureau of Foreign and Domestic Commerce. *See also* Chapter XV.

EXPORT COPY AND TRANSLATIONS

Domestic advertising copy, particularly for use in the publications field, is sometimes found to be satisfactory for export advertising purposes, but this is more commonly not the case. The form in which a story is to be told depends upon the temperament and psychology of the people for whom it is intended. There are some who claim that all advertising is the same and this is undoubtedly true as relating to the fundamental impulses to which all humans respond; but so much importance is imputed to the superficial things of life that it is logical to suppose that the same holds true of publicity work. The "snappy" or jocular copy which appeals to an American public would not be satisfactory in a quiet and more conservative part of the world. Tradition, religion, and economic conditions may necessitate the wording of an appeal in various ways to suit the particular situation. A good export advertising copywriter is indeed a valuable asset, by reason of his knowledge of these apparently insignificant, but nevertheless important, shades of thought which, in many instances, alter the wording of an appeal.

The use of illustration in export advertising calls for a knowledge of local conditions in order that it may fit the existing circumstances. A picture tells a story which is understood everywhere and, particularly in countries where literacy is not high, the illustration may be of greater proportionate value than the copy. Color preferences are also to be found and superstitions may sometimes eliminate entirely or may strongly recommend the use of certain subjects for copy purposes. These factors are especially significant when outdoor advertising, window display cards, or other illustrations which appear before the transient public, are under consideration. Perhaps some of the inaccuracy in export advertising illustration may be traced to a tendency on the part of the artist to obtain ideas of foreign peoples and their environment from cartoonists.

A common problem in copy work for export trade is translation. If destined for a British public it is essential to render the copy in the King's English and to recognize the differences in American and British spellings or colloquialisms. A much more serious problem is faced in translating copy into a foreign language. A good translator, as discussed in connection with export catalogues, endeavors to put the idea rather than the words into the foreign tongue. The absence of foreign synonyms for certain English words is not confined to technical expressions alone.

The safe policy for an established exporter to adopt in order properly to safeguard the accuracy of translations is to send the copy abroad to the foreign branch or to the dealers for their criticism before final action is taken. When branches are established, this constitutes one of their distinctive advantages. Should time not permit of this, a substitute plan of almost equal merit consists of submitting translations to several translators for their comment.

In this modern day of American foreign trade, it may be suggested that these observations are unwarranted. The following quotation from a report of United States Trade Commissioner David S. Green, stationed at Paris, may, therefore, prove interesting in this connection. Referring to the nineteenth Paris Fair, Mr. Green reports:

> Advertising posters and brochures of American office equipment were above the average in design and effectiveness. However, there were several posters on display in one stand containing so many errors in spelling and phrasing that they came in for considerable ridicule from passers-by. On being questioned, the manager of the agency stated that he had asked his American principals to let him at least check the wording to appear on these posters before they were made out in America but that the factory had disregarded his request. Several other agents for American firms cited these poorly worded posters as an example of the dangers of displaying American advertising in France without its wording having been prepared or at least checked by some one with adequate command of the French language.[2]

Having surveyed the methods of conducting export advertising, attention will now be directed to the control of a publicity program.

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[2] Foreign Market Bulletin No. 331-AD of the Specialties Division, Bureau of Foreign and Domestic Commerce, July 23, 1927, p. 2.

THE EXPORT ADVERTISING DEPARTMENT

Any exporting concern which affords publicity to its products in foreign markets finds it necessary to establish in the home office some kind of control or supervision over export advertising programs. It may maintain an advertising department, the actual functions to be performed and the size of the organization depending upon the firm's advertising program. In the case of centralized control over export advertising, the planning and also the detail work are largely placed in this department; while under a policy of decentralized control, the burden of operating the advertising campaign is placed upon the foreign agents, distributors, branches, or upon advertising agencies.

At the head of the department is to be found the export advertising manager. He is in a position which calls for a maximum of coöperative ability. Part of his work is to confer with and seek the advice and support of the other heads of departments in the organization upon whom he is dependent for information which is of value in planning, running, and checking an advertising campaign.

The size of the department depends upon: (1) the number of countries to be covered; (2) the number of products to be featured; and (3) the size of the appropriation.[3] If a centralized plan of control is adopted, the organization may embrace an assistant advertising manager, a copywriter, and a layout man, filing, checking, and supply clerks or further personnel according to the bulk of the work undertaken. Even in the case of decentralized control, some or all of these members of the export advertising department may be employed, depending upon the extent to which the prosecution of the advertising campaign is delegated.

Under the centralized plan of control, as stated above, the bulk of the planning and execution of the export advertising campaign is handled by the department in the home office, although it may be delegated to salesmen. The latter are ordinarily unqualified for this work, however, and a great deal of responsibility will still rest upon the export advertising department. The entire procedure is at all times under the direct control and scrutiny of the home office. It is generally conceded, however, that centralized control is satisfactory only for publications advertising, and even then it is seriously hampered. Difficulties arise principally from the undeveloped state of advertising in most foreign countries and the absence of American ideas of administration. It is almost certain under such conditions that advertisements placed in foreign publications will often be more expensive, less effectively located, and altogether less satisfactory than under decentralized control.

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[3] D. L. Brown, *Export Advertising*, p. 40.

Under the decentralized plan of control much of the responsibility is placed upon foreign distributors and branches or upon export advertising agencies. For the present the latter will be eliminated from our discussion and only distributors and branches will be considered. In this plan of control the export advertising department determines and prescribes the policies to be followed and the sums to be expended, and it exercises a general directive control over the campaign. Moreover, it is found advisable for the home office to prepare certain kinds of advertising materials such as catalogues, pamphlets, folders, etc., which can be more economically and satisfactorily supplied in this country. The actual conduct of the campaign is in the hands of the firm's foreign representatives. When foreign branches are employed by the exporter, the general practice is to delegate this work to the branch and no serious problems of policy arise in this connection. When foreign distribution is conducted through dealers, distributors, or agents, one outstanding advantage of a decentralized plan of control is the coöperative spirit fostered by it. Advertising plans, particularly in foreign trade, have frequently proved of little or no value because the sympathy and interest of the dealers was not recruited. By placing upon the foreign distributors the responsibility of carrying on an advertising campaign, it is certain that their interest will be stimulated, resulting in greater sales effort on their part.

Decentralized control also affords close supervision over local advertising media, thus providing a means of overcoming the disadvantages likely to be suffered when local media are employed. Moreover, in translation and copy work, "local color" may be effectively inserted by the distributor. The latter may be raised to a high degree of enthusiasm in the company and in the product and thus be led to supplement the campaign with advertising paid for out of his own funds. Such advantages are not to be overlooked, although there is, even to-day, a surprising lack of solicitation of advertising coöperation on the part of foreign dealers, leading to the formation of certain ideas which place this plan of control in an unfavorable light. Commenting on this, Carl F. Propson remarks:

> Some of the more commonly heard objections to such conferences (with dealers) are that the time is so short that it would not be possible to communicate with the foreign sales agents; that the foreign sales agents are foreign merchants, entirely ignorant of advertising and therefore a drawback rather than a help and that the foreign sales agents' recommendations regarding advertising are usually colored by friendship or prejudice and for that reason not to be depended upon. All of these, it is easy to see, are not really objections but excuses.[4]

Objections of this kind, no matter how valid, indicate an unwillingness to recognize the merits of a scheme. This unwillingness is not substantiated by the facts but it is nevertheless quite real. A compromise plan of control may, therefore, be found and this may be designated as the semicentralized plan.

By this coöperative plan, certain advertising functions are performed by the exporter and certain others are carried on by the distributors. Local advertising is coming more and more to be the special advertising responsibility of dealers, leaving to manufacturers the obligation of conducting national advertising. Whenever the costs of local publicity are divided equally, the plan is known as the fifty-fifty campaign. Coöperative control of this nature is rarely advisable in introductory advertising work but after a product has become established it may prove to be quite satisfactory.

Again quoting Mr. Propson, who undertook a special study of this subject, the disadvantages charged against this plan are, " . . . if the agent is allowed to select the media, he is apt to make selections from a nontechnical standpoint. He is also . . . apt to choose publications because of friendship or from political reasons. In addition . . . there is sometimes trouble over the settlement of the account with the agent, which leads to unpleasant business relations. If the agent is allowed to prepare his own advertisements . . . the campaign is sure to suffer."[5]

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[4] Carl F. Propson, *Export Advertising Practice* (Prentice-Hall, Inc.), pp. 129-130.

[5] *Ibid.*, p. 135.

The conduct of a semicentralized advertising campaign calls for the adoption of means of control that will eliminate these objections. Referring to the first and second disadvantages concerning the media selected by the agents, it may be pointed out that this plan of advertising control is not to be attempted until the foreign dealers have come to a full appreciation of the value of advertising. As to the last objection, it may be remarked that the practice generally is for the exporter to prepare all of the copy himself and to permit the agent only to translate; or to prescribe the type of copy that is to be used by the agent and to predicate advertising allowances upon the submission of satisfactory vouchers. The third objection relating to accounts calls for clear understanding between the exporter and the dealer. If a well thought out plan of continuous coöperation is adopted and consistently followed, there is no reason why a successful campaign cannot be conducted on the semicentralized plan.

THE EXPORT ADVERTISING AGENCY

American export advertising agencies have developed and expanded since the War, as have all other foreign trading facilities, and many of them are in a position to render satisfactory service to their clients. In former years these agencies were nothing but ''space brokers'' but there now are agencies that have ''been consistently cultivating the ground and carrying the American message overseas in the proper way and to-day this group is serving the American manufacturers overseas with most adequate facilities, personnel and experience to give the manufacturers a service in foreign markets which is in every way comparable with the best agency service secured by the American manufacturers in the domestic field.''[6] This statement cannot be truthfully applied to all agencies engaged in export advertising. Conflicting testimonies as to the advisability of employing their services are due perhaps to the necessarily varying experiences which advertisers have had in dealing with different agencies.

From the foregoing it appears that there are different types of export advertising agencies. One type consists of American domestic agencies that have added export advertising merely as

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[6] Statement by a leading export advertising agency, Sept. 3, 1927.

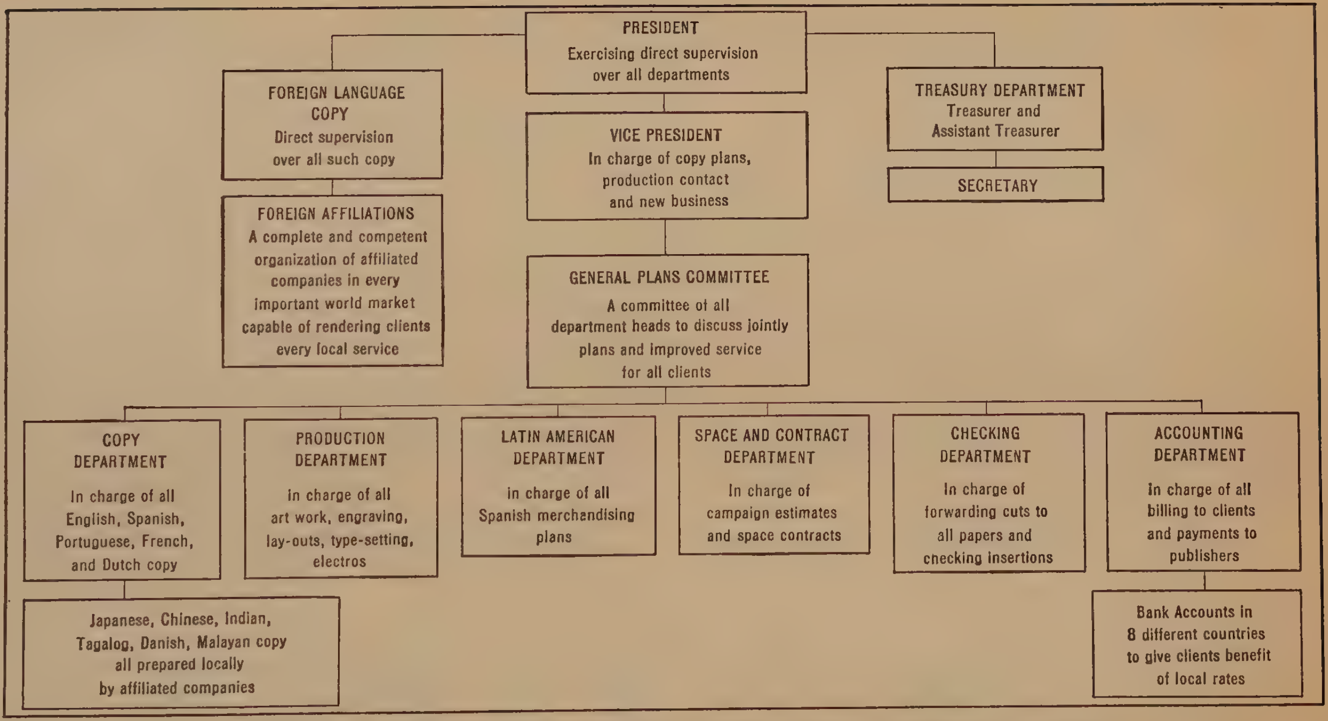
PRESIDENT
Exercising direct supervision over all departments
FOREIGN LANGUAGE COPY
Direct supervision over all such copy
FOREIGN AFFILIATIONS
A complete and competent organization of affiliated companies in every important world market capable of rendering clients every local service
VICE PRESIDENT
In charge of copy plans, production contact and new business
GENERAL PLANS COMMITTEE
A committee of all department heads to discuss jointly plans and improved service for all clients
TREASURY DEPARTMENT
Treasurer and Assistant Treasurer
SECRETARY
COPY DEPARTMENT
In charge of all English, Spanish, Portuguese, French, and Dutch copy
Japanese, Chinese, Indian, Tagalog, Danish, Malayan copy all prepared locally by affiliated companies
PRODUCTION DEPARTMENT
In charge of all art work, engraving, lay-outs, type-setting, electros
LATIN AMERICAN DEPARTMENT
In charge of all Spanish merchandising plans
SPACE AND CONTRACT DEPARTMENT
In charge of campaign estimates and space contracts
CHECKING DEPARTMENT
In charge of forwarding cuts to all papers and checking insertions
ACCOUNTING DEPARTMENT
In charge of all billing to clients and payments to publishers
Bank Accounts in 8 different countries to give clients benefit of local rates

CHART XII. HOME ORGANIZATION OF A LARGE EXPORT ADVERTISING AGENCY a side-line, or perhaps as a convenience to clients desiring this service. One such agency operates a London office whose clientele is British. It does not solicit the patronage of American advertisers in Great Britain but the service is available in case American clients desire to utilize it. Another distinction between export advertising agencies hinges upon the methods by which foreign service is conducted. Some agencies operate their own offices in foreign countries and may be classed as "one control service" companies; while other agencies operate through and are closely associated with local advertising agencies in foreign countries.

There is a feeling among some advertisers that satisfactory service is impossible except under the "one control" system. This is not necessarily the case, as some of the most reputable and successful export advertising agencies are organized on the associated rather than on the branch plan. It is generally admitted that foreign advertising agencies are able to secure the lowest rates and best positions, and that in other ways they may be of decided value in dealing with publications. Even though the American agency may place practically all of its advertising directly with the foreign publications and thus control the advertising program, local agents may conduct the necessary bargaining and checking.

A further refinement in the types of export advertising agencies is seen in the case of one company that has specialized in the export advertising of pharmaceutical preparations and proprietary remedies. A notable merchandising service is rendered by the Export Department of this agency. To quote a statement received from the agency: "This Export Department has direct connections with the principal drug wholesalers and retailers acting as export agents for its clients. The purpose of this is to lend a helping hand to those prospective exporters who are without an export organization of their own and who would be otherwise unable or unwilling to develop foreign markets by themselves."

The usual method of compensating export advertising agencies is now radically different from what it formerly was. This change has been from a system whereby the agency acted as a representative of the publications to a position as representative of the advertisers. Under the former mode of operation, compensation took the form of commissions and discounts allowed by the advertising medium for space contracts sold by the agencies. Quite frequently, when this system is employed to-day, the discounts (for prompt payment, large contracts, etc.) are credited to the advertiser. The preferable system of compensation is the second method whereby the agency is paid by the advertiser for the service rendered and for directly representing his interests. In this case, all discounts and commissions are credited to the account of the advertiser and then a flat service charge of usually 15 or 20 per cent is made, subject to a minimum fee, and with certain additional charges for such activities as translation and art work.

Adequacy of Service and Representation.—There has been much controversy, and it still continues to some extent, as to the adequacy of the service and representation offered by American export advertising agencies. The largest and most successful companies that are engaged either exclusively in export work or jointly in connection with their domestic business, contend that their service is quite comparable with that offered by agencies in domestic trade. Some other agencies, which are ordinarily not so large, claim that in their opinion the service of export agencies is inadequate.

Out of fifty manufacturers questioned on the subject and producing articles internationally known and differing widely as to type, it was found that approximately one-fourth employed American agencies in their foreign advertising. Ten years ago not one of the fifty was using an American agency and the majority of them began to do so within the past five years. The reasons for this recent growth in the utilization of American export advertising agencies are directly attributable to the services they render. Excerpts from the replies of manufacturers reveal among the advantages which they have experienced in dealing with export advertising agencies, that (1) their art work is better than that done in foreign countries and offers more appeal; (2) the American agencies assist in locating good distributive agents abroad through their various branch agencies; (3) they offer close contact with the advertiser, thus affording a means of familiarizing the agency with new ideas concerning the marketing of the product; (4) centralization and uniformity is obtained in a world-wide campaign because of agency control;

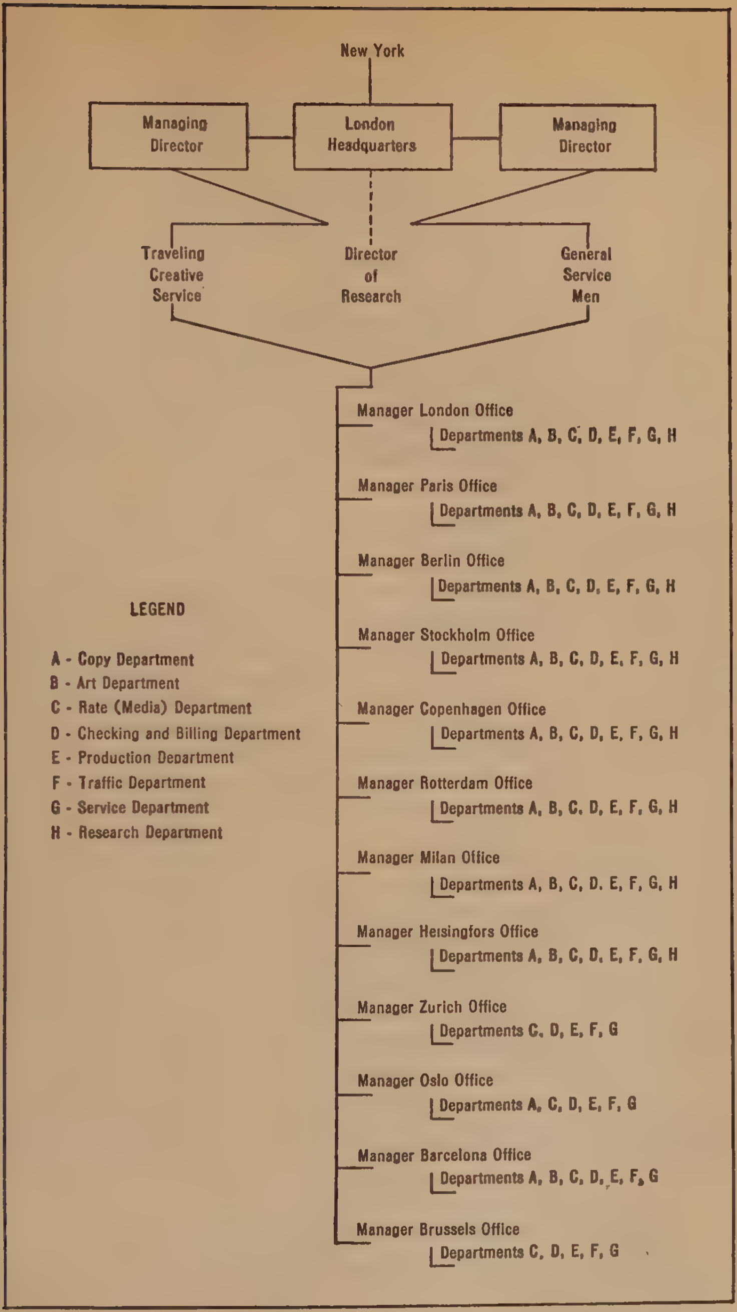
New York
Managing Director
London Headquarters
Managing Director
Traveling Creative Service
Director of Research
General Service Men
Manager London Office
Departments A, B, C, D, E, F, G, H
Manager Paris Office
Departments A, B, C, D, E, F, G, H
Manager Berlin Office
Departments A, B, C, D, E, F, G, H
Manager Stockholm Office
Departments A, B, C, D, E, F, G, H
Manager Copenhagen Office
Departments A, B, C, D, E, F, G, H
Manager Rotterdam Office
Departments A, B, C, D, E, F, G, H
Manager Milan Office
Departments A, B, C, D, E, F, G, H
Manager Helsingfors Office
Departments A, B, C, D, E, F, G, H
Manager Zurich Office
Departments C, D, E, F, G
Manager Oslo Office
Departments A, C, D, E, F, G
Manager Barcelona Office
Departments A, B, C, D, E, F, G
Manager Brussels Office
Departments C, D, E, F, G
LEGEND
A - Copy Department
B - Art Department
C - Rate (Media) Department
D - Checking and Billing Department
E - Production Department
F - Traffic Department
G - Service Department
H - Research Department

CHART XIII. FOREIGN ORGANIZATION OF A LARGE EXPORT ADVERTISING AGENCY

(5) practices of American agencies are the result of experience based on market analysis, trade advertising, etc.; (6) economy in some respect results, as the same art work and cuts can be used over a wide area; (7) they are able to control truthfulness in advertising; (8) sales coöperation is offered; and (9) all detail work is handled, thereby eliminating the necessity for an extensive advertising department.

If all of these advantages could be claimed for all American export advertising agencies by all of the advertisers, the agency question could be considered settled. As it is, no more than two of the advantages listed were mentioned by any one advertiser; and it is certain that not all agencies are equipped legitimately to perform the services which they claim to offer. The rather expansive claims of some agencies, unfulfilled when tested, have caused discredit to be cast upon all agencies in the eyes of some advertisers. It is obviously essential that the advertiser satisfy himself as to the ability of an agency to render the services claimed by it and there are undoubtedly some that can fulfill their claims. It might be here remarked that most American agencies confine their activities largely to publications advertising.

Foreign Advertising Agencies.—In addition to American agencies, there are also foreign advertising agencies, some of which have offices in the United States and are probably as capable of performing the type of service desired as are American agencies. Foreign agencies located abroad, however, are generally unprepared to satisfy the critical demands of American advertisers for service patterned on American advertising ideas. These agencies do possess certain advantages in rates, local color, close supervision, artistic appreciation, and in coöperation with foreign sales representatives, and sometimes they employ advertising experts who have received their training in the United States. Some manufacturers who advertise abroad employ both American and foreign agencies, realizing the singular advantages of each.

COLLATERAL READINGS

See readings appended to Chapter XVIII.

CHAPTER XX

FOREIGN CORRESPONDENCE AND POSTAL SERVICE

Correspondence may be employed as the sole method of conducting foreign as well as domestic commerce. Although we generally think of a mail-order house in connection with the conduct of business exclusively through the mails, it is quite probable that many foreign traders accomplish a greater volume of trade through this medium than is generally realized, and a number of manufacturers of clothing, tobacco products, optical goods, pumping machinery, and other wares conduct their entire foreign trade by means of correspondence. Its use in foreign trade as an exclusive method has, however, been seriously restricted by the factors of distance and unfamiliarity.

It is generally in its secondary use that we think of correspondence. Business may be conducted solely on the basis of letters but more trade will probably result from the judicious use of more personal exporting and importing methods. Letters used in conjunction with advertising, orders, settling disputes, preparing the way for a salesman or buyer, stimulating the efforts of overseas representatives, etc., form a vital part of the foreign trade program of any concern. Who can tell what harm or what good may be accomplished by a letter dispatched during a crucial period, or what additional incentive may be given to push the sale, accept the price, alter the terms?

The same general classification of letters applies in both domestic and foreign trade. Differences are mainly ones of technique. As in domestic correspondence, form letters are employed in foreign correspondence to take care of routine matters. When form letters are written in a foreign language, it is often found especially advisable to construct them from a series of numbered paragraphs. These when put together in the order designated by the particular writer result in a letter having all the earmarks of individuality, yet one which has been ''dictated'' rapidly and with no additional effort in having it translated.

Printed forms are also at times utilized in attending to certain details.

Circularizing.—Circular letters, either individually or in series, may be used by an exporting concern in order to stimulate interest in its product. The first step in such a plan is to prepare a mailing-list. This may be procured from some of the foreign trade-promoting organizations described in Chapter XI, and the United States Government agencies will also provide names for circularizing. Limited lists may be had directly from its overseas representatives-consuls, commercial attachés, and trade commissioners. The Commercial Intelligence Division of the Bureau of Foreign and Domestic Commerce prepares lists of dealers arranged by commodities and countries. Various directories may also be consulted, some of them being of the trade type and others being city or other territorial directories. *Kelly's Directory of Merchants, Manufacturers and Shippers of the World* (annual) is particularly well known; *Lloyd's Directory of Manufacturers, Merchants and Shipping Trades in all parts of the World* is a good general compilation; and *Buyers for Export* published by Thomas Ashwell and Company, New York, provides valuable trade lists. Telephone directories, although rarely procurable, are an additional source and foreign trade publications prepare mailing-lists for the use of their advertisers. From these sources, among others, a mailing-list of foreign prospects may be built. The necessity of keeping it up-to-date is apparent.

In some instances, the names carried in directories are incompletely classified according to their position in the distribution chain. Letters intended for importers or jobbers alone may, for example, be unwittingly sent to wholesalers as well, and thus inform the latter as to matters that are not intended for them.

Series of circular letters may be used to as great advantage in foreign as in domestic trade. They may be more effective abroad because of the absence of the barrage of circulars to which the average American business man is subjected.

The individual appeal which letters should convey is naturally lost to a great extent, if not entirely, when circularizing is practiced. Circular letters, either individually or in series, belong in the field of advertising rather than in that of correspondence.

PRINCIPLES OF FOREIGN TRADE CORRESPONDENCE

With the growth of brevity and terseness in business correspondence in the United States, greater stress is being laid upon the necessity of recognizing a somewhat different condition in foreign trade correspondence. Business men in many foreign countries have not found the need for adopting the crisp style of the American; they incline toward the same well-rounded and thoroughly phrased type of letter that, at an earlier time, was common in this country also.

Although exceptions will be later noted, certain principles are usually considered essential in foreign trade correspondence. It is contended that the typical American business letter is viewed with disfavor by foreigners because to them it is discourteous. Wherever the niceties of life are more generally emphasized and where the poise and grace which we have discarded in our general hurry and bustle still obtain, more time is taken to read letters, and the crisp American style is likely to offend. This observation is not confined to correspondence; it permeates all manner of personal relations with foreign peoples. Friendship and courtesy playing such a large part as they do in the business relations of foreigners, it is essential that this spirit be appreciated by the American who writes letters to overseas business firms. The mere fact of distance enhances the need for avoiding misunderstanding or ill-feeling. Carelessness in the wording of a letter, unnoticed in this country, might create an attitude detrimental to business abroad.

Often examples of letters written by foreigners are cited to indicate the personal feeling and courteous tone which they convey. The very forms of salutation and ending found in such letters are contrasted with our own meaningless expressions. Thus, "yours truly" is compared with an expression as "your very attentive and sincere servant," which is sometimes to be found in foreign letters. The greater expansibility of many languages compared with English further is cited to indicate the depth of feeling which may really be expressed in a human tongue. The general courteous quality that Americans admit is characteristic of most people beyond our own shores is embodied in letter-writing as well as in more direct contacts.

Individual appeal is essential in foreign correspondence, even more than in domestic. Letters failing to give this impression may be utterly useless. There are several ways in which this quality may be specifically provided in foreign correspondence. Catering to the language preference of the addressee is one method. This means not only writing in a foreign tongue in the case of non-English-speaking countries, but, according to some authorities, also the correct use of English peculiar to the part of the world to which the letter is destined. In British countries, for example, it is claimed that the use of British expressions and spellings lends attractiveness to a letter.

Appreciating the point of view of the foreigner in all things is also suggested. This requires that the writer of the letter be familiar with the conditions confronting the person whom he is addressing. Even when differences of opinion arise, a letter may be worded in such way as to convey this appreciation of the other side of the question. It does not follow that definite statement of position and firmness are to be avoided, but rather that full knowledge of the problems faced by the addressee will enable the writer of a letter astutely yet sincerely to approach these problems with a view to mutual understanding. Again, it should be recalled that in foreign correspondence an attitude once engendered is more permanently established than in domestic trade, where necessary corrections may be promptly made.

Asking the advice of the person to whom the letter is written is also suggested as a means of incorporating the individual touch. This thought capitalizes the human vanity which is everywhere to be found. Moreover, requests for opinion may be sincerely extended as a means of providing some guide to the solution of a market problem.

These instances of individual appeal are perhaps sufficient to emphasize the necessity for care and close attention to foreign correspondence. Errors must at all costs be avoided. Enclosures must not be forgotten. The writer of the letter must be constantly aware of the different type of mind which will peruse the letter.

All of this may lead the reader to believe that some mechanical robot is necessary properly to dictate foreign correspondence. Perhaps the same idea is acted upon by the energetic exporter who believes that he should ''conform'' in everything. He is the type who when going abroad at once adopts foreign dress, manners, and customs. If all this can be done gracefully, it is very well; but mechanical adherence is too often displayed in such way as to suggest mimicry. The same danger lurks beyond an undue effort to conform in matters of correspondence. Flowery expressions may not only be in place but may be expected; not, however, to the exclusion of pertinent data relating to terms or price. Unless an exporter or importer is capable of writing gracefully in accordance with this standard of foreign correspondence, it is far better to employ the more formal and crisp manner to which he is accustomed. There is also more than a bare possibility that a foreigner receiving a letter written in American style will be attracted by reason of the novelty and singularity afforded, just as is often the case when the tables are turned. Lastly, it is to be noted that there is an increasing number of foreigners who, by reason of the pressure of business and the growing appreciation of modern methods, are placing fewer flourishes in their correspondence. All letters received from overseas are by no means of the type that breathe romance.

Sometimes in foreign correspondence it is customary to send a copy of a letter on the steamer following the original. This practice is now generally unnecessary except when important documents are sent, as the perils and risks of foreign mails have been largely reduced. In some trades, however, as when several transshipments are necessary, it may still be advisable to employ this plan. When a copy is forwarded, the word "copied" is written at the lower left-hand corner of the letter to indicate that a copy will follow.

MECHANICS OF FOREIGN TRADE CORRESPONDENCE

Experienced foreign traders have found it desirable at least to consider certain mechanical features of correspondence which, in many instances, possess no counterpart in domestic trade. In other cases their application may be different or may be of greater significance.

Promptness in answering letters is desirable in all business but is especially important in foreign trade. Letters should not be permitted to await indefinite action since the failure to catch a certain mail connection overseas may delay the reply for weeks.

This condition is not found in domestic trade where the mails are constantly flowing in all directions.

The post office in every city advises as to the closing dates each week for foreign mails. By watching these dates, the correspondent will know what mail should be hastened in order to catch the earliest available steamer.

In handling foreign trade correspondence it is usually advisable to retain as part of the communication "the original envelope, postage stamp, and postmark. . . . The envelope should be pinned to the letter, at least until an answer has been dictated. Important foreign letters are often written on stationery printed for domestic use, sometimes not giving the name of the country. There is much duplication of town names in Latin America and Spain, and cases have been known where export managers could not determine whether letters were from Chile, or Cuba, or Spain. The postage stamp always indicates the writer's country, the postmark usually gives the date, and other information of value is often printed on front or back of the envelope."[1]

Many firms consider it advisable to use special stationery for foreign trade correspondence. (1) As a saving in cable charges may be realized by addressing messages to a code address rather than to the full name and address of a firm, the special stationery contains a cable address. (2) Although a foreign correspondent will not necessarily employ any of the codes which appear on the letterhead of a foreign trading concern, the announcement of the codes used will suggest their selection. Greater facility in cable communication is accomplished when familiar codes are employed. (3) Just as the sales, purchase, accounting, and other departments of a business find their respective names appearing on stationery for their own use, the export or import department or commodity branch may be individualized. (4) Some concerns employ the square or "baronial" style of envelope for foreign trade, with stationery to match. "This has its practical advantages in that bundles of letters as tied up for delivery or rail routing in foreign post offices usually conform to the baronial size and the ordinary American envelopes, particularly the long No. 10 size, are often badly mutilated in being

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[1] *Hints on Export Translations*, The Fifth-third National Bank of Cincinnati, p. 5.

'made to fit' these bundles.'' Moreover, ''it is highly desirable that the mailing department recognize such correspondence at once as foreign mail in order to avoid slips in the matter of correct postage.''[2] That such likelihood is more than conjectural may be observed from the following comment of the United States Consul General, Oslo, Norway: ''This office has received a number of complaints from Norwegian firms regarding short-paid letters received from American exporters. A number of Norwegian firms have instructed their mailing departments not to accept mail matter on which there is penalty postage to be paid. This often brings about confusion and misunderstanding.''[3] The penalty postage mentioned is double the amount of the deficiency. It should be remembered that under the Universal Postal Union, the letter rate is five cents per ounce and three cents for each additional ounce. Only when special treaty arrangements have been made is the domestic postage rate authorized.[4] (5) Although any concern may provide itself with a very aristocratic form of stationery, it is difficult to maintain a claim to stability unless it is founded upon fact. ''Established in 1882'' may mean much to foreign business men, and the dates when American firms were founded are therefore frequently shown on their special foreign trade stationery. Such factors are highly worthy of close consideration.

Filing of correspondence arising from international trade is based upon general filing principles, but certain features are distinct. Because many foreign names are somewhat unintelligible to the American, it is often advisable to file correspondence geographically rather than by name. Thus, in the case of Cuba, all Cuban correspondence would be found together, the cities of Cuba would be arranged alphabetically under this heading and the different firms would be filed alphabetically according to the cities in which they are located. Such a system also facilitates a study of the firm's business in any section of the world and provides a mailing-list of dealers according to their location. When correspondence is less extensive, as in the case of small concerns or of traders, particularly importers, who deal with a limited number of known concerns, the usual alphabetical method of filing commonly employed in the United States is quite satisfactory.

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[2] *Handling Export Correspondence*, Dun's International Review, pp. 4-5.

[3] *Commerce Reports*, June 24, 1929, p. 755.

[4] *See United States Official Postal Guide.*

The difficulty of understanding foreign names arises principally from the unusual customs prevailing in some countries. For filing purposes it probably makes little difference whether letters are filed under a man's correct name or not, so long as the same plan is followed consistently. However, in writing a letter to Arturo Pancho y Suarez, the fact that correspondence would be filed under ''Suarez'' does not excuse the ignorance of saluting him as ''My dear Mr. Suarez.'' This name in such a Spanish construction is the mother's name prior to her marriage and the gentleman in question is Mr. Pancho. Similarly in many Oriental countries, the first name is given last and the last first. Mr. Yew Shan Hwei of Canton, let us say, is known as Mr. Yew, and not as Mr. Hwei. Other constructions which to the American are peculiar include an apparent disregard for sex in many Latin Christian names, unintelligible mailing directions, and unheard-of street locations.

Translation of letters from and into foreign languages should be done promptly in order that delays may be avoided. If the exporting or importing concern is able to afford a translator, promptness is assured. Large concerns frequently have a translation department. When such arrangements within the house are not possible or economical, letters may be translated by the various foreign trade bureaus maintained by such organizations as the National Association of Manufacturers in New York and the Philadelphia Commercial Museum. Moreover, in every city of any importance translation bureaus are to be found. Ordinary rates for translating general commercial correspondence vary from twenty-five to thirty-five cents per one hundred words. Some foreign trade journals also translate correspondence arising from advertisements carried in their columns.

In addition to having a speaking knowledge of a foreign tongue it should be remembered that the translator is also to be informed as to the technical expressions which he is called upon to translate. Dictionary translations are likely to be mechanical and often in error. One translation bureau gives the following illustration of a language problem arising from the chess board. The English is ''White's bishop takes the Knight and Black's rook the King's pawn." In German this is correctly rendered "Der weisse Läufer schlägt den Springer und der schwarze Turm den Königsbauern." Turning the latter again into English, the literal result is "The white runner beats the jumper and the black tower the king's peasant." Obviously an academic translation of the original English would have meant nothing in German.

The language in which foreign letters are to be written is not always easy to decide. When answering incoming letters, the general rule is to reply in the same language, but this is subject to exceptions. The foreigner, for example, may write in English to please the American correspondent, but with evident effort. The proper thing is to reply in the commercial language of his country, if other than English, and thus reciprocate the courtesy. On the other hand, many British firms are to be found in non-English-speaking nations.

Letters received from foreign retailers and wholesalers are often couched in atrocious English. This is particularly true of Chinese and Indian houses, and as English is the commercial language of these countries, nothing is being done to ease their linguistic difficulties. From another angle, these inquiries may provide a process of natural selection and thus eliminate undesirable affiliations. The fact that letters are written in poor English is not, however, conclusive evidence of the unworthiness of the prospect. The same applies to the use of unattractive, cheap stationery, post cards, and scrawling longhand. Many well-to-do persons in foreign countries have not felt the need of modernizing their correspondence in these respects. Some of them are ranch or plantation operators and are far removed from commercial centers. Many are just "old-fashioned." Others have found it advisable to avoid any evidence of prosperity in order to discourage the tax-collector.

Languages of Foreign Trade.—The multiplicity of tongues throughout the world does not mean that the foreign trader is required to be prepared to correspond in each and every one. For commercial correspondence purposes, English, French, German, and Spanish are considered sufficient, with Portuguese for Brazil as well as for Portugal and her colonies. Whereas in advertising, local dialects and languages may be necessary, this generalization applies broadly to correspondence.

English is used, of course, for the United Kingdom and for the countries of the British Commonwealth of Nations. This not only includes Canada and Australia, but also India and the colonies in Africa. English is also the commercial language of China, Japan, the Philippines, Siam, Straits Settlements, Netherlands East Indies—the Far East generally. Moreover, English is employed for commercial purposes in Scandinavian countries—Norway, Sweden, and Denmark. In addition to German, it is preferable for use in the Baltic countries, and may also be used in correspondence with Holland and Denmark. The French language, in addition to its application in France and her colonies, Belgium, Haiti, western Switzerland, etc., is the commercial language in Greece and Roumania and the Near East countries generally. For commercial purposes it is also acceptable in Italy. German is used in Germany, Austria, Czechoslovakia, Hungary, and Jugoslavia. In addition, it predominates in Switzerland and is preferable in Latvia and Bulgaria, although English and French, respectively, are also acceptable in these countries. Spanish, in addition to its use in Spain and her colonies, is the language of all Latin American countries except Haiti, Brazil, and those which are under the control of some foreign country.

This allocation does not mean that preference should be given to English when corresponding, for example, with the Netherlands. If the native tongue may be conveniently and economically used, this should be done. But the fact remains that these five, including Portuguese, constitute the number of languages which the foreign trader may expect to use in his foreign correspondence.

POSTAL SERVICE [5]

The necessity for international agreement to establish the service and to regulate the handling of international mails gave rise to the Universal Postal Union. This organization, with headquarters at Berne, Switzerland, dates back to 1875. Practically all of the nations of the world are signatories to the convention. Congresses are held at approximately five-year intervals in order to discuss and adopt any changes which are found necessary.

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[5] *See* current issues of *United States Official Postal Guide.*

A second general postal convention to which the United States is party is the one which created the Pan-American Postal Union in 1920. In that year, the Universal Postal Union was convened in Madrid. Efforts were made by many of the war-stricken countries of Europe to raise postal rates and thus to enhance governmental revenues. Unexpectedly, many of the countries of the Americas, as well as Spain, not desiring any increase in rates, agreed to form the Pan-American Postal Union. Subsequent conventions were entered into in 1921 at Buenos Aires, and in 1927 at Mexico City. These conventions, as far as the United States is concerned, have adopted the principles on which international exchange of ‘‘regular’’ mails is to be conducted. ‘‘Regular’’ mails include letters, post cards, printed matter, commercial papers, and samples of merchandise—parcel post is excluded.

The letter rates under the Universal Postal Union are five cents per ounce and three cents per additional ounce; while for post cards the rate is generally three cents. Under the Pan-American Postal Union, domestic rates are reciprocally extended to all countries which have signed the convention.

Commercial papers include all handwritten papers which do not have the character of actual personal correspondence, such as documents of all kinds drawn up by ministerial officers; waybills or bills of lading; invoices; certain documents of insurance companies, etc. The regulations are generally the same as those governing printed matter.

‘‘Printed matter,’’ as accepted in foreign mails, includes newspapers and periodicals, pamphlets, stitched or bound books, and in general all copies or impressions made upon paper, cardboard, or parchment by printing or any other mechanical process easy to recognize, except the copying press and the typewriter. Included in this classification are catalogues and advertising material. The weight limit generally observed is four pounds six ounces, except that in postal arrangements with many Latin American countries, the limit is double this amount. The rates at present are one cent per two ounces except that in the case of commercial papers the minimum charge is five cents.

Samples are also shipped in foreign mails, but in order to qualify they must be samples of merchandise without commercial value. It is advisable when shipping such items to mark clearly on the package this postal description, for customs inspection will probably be thereby avoided. The present postage rates for samples are the same as for printed matter: one cent per two ounces.

Merchandise in packages weighing eight ounces or less may be mailed to countries which are members of the Pan-American Postal Union at a rate of one and one-half cents per two ounces or fraction thereof; and if the merchandise be seeds, plants, bulbs, roots, cuttings, or scions, the rate is one cent per two ounces or fraction thereof. "Combination packages" are also authorized for some countries. These are in two parts firmly attached, each part weighable separately, and both parts addressed for delivery to the same addressee. They consist of (1) a sealed envelope containing a written or printed communication, fully prepaid at the letter rate of postage and (2) an unsealed container, with samples of merchandise or printed matter inclosed fully prepaid at the appropriate rates of postage.

International reply coupons are procurable at the post office for nine cents each. They may be exchanged for a five-cent stamp almost anywhere in the world. The value of these coupons lies in the facility they provide for prepaying postage on a reply which is elicited from a foreign business man. International mail may also be registered upon payment of the fee of fifteen cents.

Air-Mail.—Each succeeding year witnesses a further extension of the air-mail service in various parts of the world. In the United States, the service extends to the various ports where connections with ocean mail steamships are made. Direct air-mail routes have been established and are constantly being extended to points in Canada and Mexico. Service from Miami, Florida, is maintained with: (1) Havana, Cuba; (2) Havana, Central America, and Cristobal, Canal Zone; (3) Havana, West Indies, and San Juan, Porto Rico; and (4) Nassau, Bahama Islands.

From Cristobal, air-mail service extends to points in Colombia, Ecuador, Chile, Bolivia, Argentina, and Peru, and from Buenos Aires to Paraguay and Uruguay. Compared with steamer mail to west coast countries, the air service represents a saving of from four to eight days. This may be considered only a beginning of the air-mail developments of the next decade in South America.

In addition to these air-mail services, there are numerous routes in other parts of the world. Arrangements have in some instances been made whereby the foreign air-mail rate may be prepaid in the United States. This may be done on the routes between London and the Continent, North and West Africa and Persia; between Paris, European cities, and West and North Africa; between Cairo, Bagdad, and Basra; Mexico City, Tuxpan, and Tampico; Lima and Iquitos, Peru; Lima and Talara, Peru; Barranquilla and interior Colombian cities. The latter service also carries parcel post. In this way, a letter may, for example, be mailed in St. Louis and carried by plane to New York; thence by steamer to London; and from there by airplane to any important European city.

International Parcel Post.—Parcel post provides a separate subject, distinct from the "regular" mails, with which international conventions have dealt. An international parcel post convention has been drawn up, in connection with the Universal Postal Union, but due to the numerous exceptions included in it and to the complications it involves, the United States has never become a party. The United States is a signatory, however, to the Pan-American Parcel Post Convention of Mexico which became effective on July 1, 1927. In those instances where signatory countries have ratified the convention, it replaces the older Buenos Aires agreement of 1921.

The more general policy of the United States is to negotiate separate parcel post treaties with individual countries. This policy was initiated in 1887 by treaty with Jamaica. Since then the United States has concluded agreements with most of the countries of the world, including many colonies. In the case of Cuba special conditions have entered to prevent the establishment of a parcel post service. A temporary convention was effective from January 1, 1926, to February 29, 1928, and a new agreement was signed on July 24, 1930, to become effective on September 1, 1930. Because the Tariff Act of 1930 removed the prohibition on imports of cigars and cigarettes in quantities of less than 3,000, Cuba was willing to enter into a new parcel post convention allowing the shipment of these important articles that formerly were automatically barred from the mails.

The general principle involved is the payment by the country of origin to the country of destination of a fixed rate per pound or per parcel. Although the arrangements vary with different countries, some general observations may be made. The maximum weight usually permitted for international parcel post is twenty-two pounds, although it is as low as eleven pounds in the case of Spain, Japan, etc., and as high as fifty pounds in the case of Panama. The general dimensions authorized are three and one-half feet for the greatest length, and six feet for the greatest length and girth combined. This is, of course, subject to exceptions. The usual charge is fourteen cents per pound or fraction thereof. Under the Mexico convention, the rates are thirteen cents initially and twelve cents for each additional pound, plus a surcharge of five cents per parcel. Agreements with some countries, including Guadeloupe, Haiti, and Japan, authorize a rate of twelve cents per pound. Transit charges, if any, are in addition, and are to be prepaid in United States stamps.

Under the Pan-American Convention, indemnity, not in excess of $9.65 per package, is paid for loss, damage, or rifling, the amount being dependent upon its weight. Registration of parcel post is solely provided by special agreement. By agreement with the Cape Verde Islands, Chile, Denmark, Finland, Iceland, Czechoslovakia, Latvia, Mexico, Portuguese West Africa, Salvador, Sweden, and Switzerland, indemnity for loss, damage, or rifling of registered parcel post is granted up to a maximum of $9.65 unless due to *force majeure* as construed by the country in which it occurred. Additional agreements arranging for indemnity in case of loss of registered parcels include the agreements with Germany, Macao, and the Netherlands, whereby a maximum of $100.00 is allowed, and those with Ecuador and Portugal fixing the indemnity at a maximum of $50.00. Insurance of parcel post is also arranged by treaty with some countries, including Austria, Canada, Cape Verde Islands, Ecuador, Great Britain and northern Ireland, Hungary, Irish Free State, Macao, Netherlands, Newfoundland, Norway, Portugal, Portuguese West Africa, and Straits Settlements.

In the case of Mexico alone is a c.o.d. service authorized for the international parcel post of the United States.

Special handling of foreign parcel post is permitted upon payment of an additional fee, dependent upon weight.

Certain customs formalities are required in connection with international parcel post shipments. Every parcel post package sent abroad is required to have attached a *customs declaration.* This contains a description of the parcel, its contents, value and instructions. Moreover, when parcel post packages are sent abroad containing merchandise valued at $25.00 or more they are to be accompanied by a *postal export declaration.* These documents are required by the United States Government. In some cases, *e.g.*, France, a special customs declaration is also required by the country of destination.

Incoming parcels must pay import duty the same as other shipments of merchandise. Valuation and assessment as well as collection of duty are made at specified post offices where customs officials are located for that purpose. A delivery charge of five cents is levied on all imported parcel post or mail packages.

TABLE XI

EXPORTS AND IMPORTS

Year	Recorded *	Unrecorded † (estimated)	Total
EXPORTS BY PARCEL POST			
1924	$21,420,000	$30,000,000	$51,420,000
1925	26,052,000	25,000,000	51,052,000
1926	27,977,000	19,000,000	46,977,000
1927	27,785,000	22,000,000	49,785,000
1928	29,014,000	20,000,000	49,014,000
1929	....	20,000,000	....
IMPORTS BY PARCEL POST			
1922	$98,375,000	not available	....
1923	107,656,000	not available	....
1924	107,189,000	not available	....
1925	125,133,000	not available	....
1926	129,161,000	$25,000,000	$154,161,000
1927	111,501,000	22,000,000	133,501,000
1928	110,153,000	20,000,000	130,153,000
1929	....	20,000,000	....

* From *Statistical Abstract of the United States.*
† From *Balance of International Payments of the United States.*

While we think almost exclusively of the mail-order business in connection with parcel post, the service is utilized by merchants and manufacturers generally. Some indication of the extent of the business done may be seen from the data in Table XI.

The recorded exports and imports include only packages valued at $25.00 or more and moving between American business men and foreign business men. Samples are omitted and in every way these statistics may be viewed as a measure of the commercial use of the parcel post service in the foreign trade of the United States.

Although details of the import movement are not available, some indication of the variety of the merchandise attracted to international parcel post may be gained from an analysis of the exports. Some of the leading items in this movement are silk hosiery; hats and caps; platinum ingots, sheets, wire, scrap, and alloys; fountain pens; teeth; optical goods; medicines, serums, vaccines, and chemicals; safety razor blades; watches and parts; uppers leather; boots and shoes; dressed and undressed furs; wheat flour; cotton hosiery; collars and cuffs; shirts; broad silks; wearing apparel (silk and cotton); rayon hosiery and apparel; corsets, brassieres and girdles; garters and arm bands; tools and hardware; jewelry; gold and silver manufactures; gold plated articles; metal working machinery; paints; photographic films, including motion picture; dental instruments and supplies; surgical and medical instruments and appliances; musical instruments; refillable pencils and leads; rubber balloons; office supplies; books and printed matter; notions; brushes; revolvers and pistols; athletic and sporting goods.

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CHAPTER XXI

INTERNATIONAL COMMUNICATIONS

Among the scientific facilities that have been developed for the extension of international commerce and general relations there is none of greater importance than the various electrical methods of transmitting messages. Man has constantly endeavored to perfect better means of conveying ideas. The need of providing such facilities was early felt.

> The first authentic record of communication is in Biblical times when signal fires with various meanings were used throughout Israel. The smoke signals of the North American Indians and their burning arrows, the beacon fires of the Greeks, the flashing of reflected rays of the sun by means of highly polished shields in Roman days, the knotted silken cords or quipas which the Incas sent from Cuzco to Quito by relays of swift-footed runners, were all attempts at the betterment of communication between peoples.[1]

Early in the nineteenth century, the semaphore, a French invention, was in wide use. Next came experiments with electrical transmission over wires and in 1842, Morse was successful in telegraphing between Castle Garden and Governor's Island in New York Harbor. The day of the commercial submarine cable dawned when Cyrus W. Field, in 1866, after several unsuccessful efforts, established permanent wire communication between Newfoundland and Ireland. From this small beginning, the length of commercial cables has increased to approximately 360,000 miles, owned by 32 private companies and 25 nations.

The most recent developments in the submarine cable have been provided by the metal permalloy which is an alloy of iron and nickel and which was perfected in the Bell Telephone Laboratories. By means of this metal, the magnetic opposition to the speed of a message has been materially reduced and with this substance distributed entirely along the length of the thin copper conductor, a speed of 2,500 words per minute has been achieved in the world's fastest cable.

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[1] John L. Merrill, article in *International Telephone Review*, Vol. IV, No. 3 (July, 1928), p. 25.

The second important communication facility was provided by radio telegraphy, which was rapidly developed from the beginning of the twentieth century and particularly during the War when many of the cables were cut. Possibilities of transmitting electrical waves through the ether were demonstrated in 1887 by Heinrich Hertz who gave practical evidence to the theories worked out in 1865 by J. C. Maxwell. From 1894 to 1896 Guglielmo Marconi worked on the perfecting of a device called *coherer* (detector) which had been earlier devised by Branly. In the latter year he made the first successful effort at wireless communication. In 1901 the first signals were transmitted across the Atlantic Ocean and in 1904 a regular service was established to carry press dispatches from Poldhu and Cape Breton to liners on the high seas. Refinements were rapidly made and in 1906 De Forest produced the first vacuum tube or "audion" as a detector and amplifier. As is well known, the vacuum tube although used in connection with radio telegraphy, ushered in the era of radio telephony. This provided the third step in the development of communications facilities.

The American Telephone and Telegraph Company as early as 1915 had succeeded in transmitting speech from Arlington, Virginia, to Paris, France. In 1923, an audience at the plant of "the Western Electric Company (now Standard Telephones and Cables, Ltd.) at New Southgate, London, heard the voices of speakers in New York."[2]

Finally, after years of experimenting, the trans-Atlantic telephone service was opened for commercial use on January 7, 1927, between New York and London. Connections with New York were rapidly extended to other places in the United States, then to Canada, Mexico, Cuba, and finally to South America. The policy of the American Telephone and Telegraph Company, which operates the system in the United States, is to extend the service as rapidly as foreign countries develop the facilities for handling long distance transmission.

Meanwhile, the extension of the service throughout Europe is arranged by the British General Post Office. As rapidly as connections could be made, transatlantic telephone service was extended to the continent of Europe, so that to-day the new world and the old are closely linked by this conversational facility. Africa has also been reached, and radio telephone has been extended to Australia via Montreal. On April 3, 1930, Argentina, Uruguay, and Chile were communicated with via Buenos Aires, and further developments lie just ahead.

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[2] Report of the Committee on Trans-Atlantic Wireless Telephony, H.M. Stationery Office, London, 1927.

INTERNATIONAL COMPETITION

Communications are considered to be of great national importance, not alone for commercial purposes but also for political and military reasons. As discussed by Mr. George Atcheson, Jr.[3] cable communications, from the political angle, avoid misunderstandings with foreign nations due to the interchange of ideas and the facility for combating false propaganda. Moreover, as lines are laid, services extended, and rates reduced, subsidized news agencies can be dispensed with. From the military angle, the use of cables is especially significant. With their assistance the effectiveness of navies is augmented; secret communication is provided and military as well as general news may be controlled. Indeed, the necessity of preserving the cable lines for political and military purposes, although not commercially lucrative, was an underlying factor in the British consolidation, Cables and Wireless, Ltd. When the United States became involved in the World War, the Navy Department took over and administered the submarine cables reaching our shores. A strict censorship was established.

President Harding, in his message to Congress on April 12, 1921, announced a national policy which is of interest in this connection: "The government of the United States stands for the development of American-owned communications facilities, cables, radios, telegraphs and telephones to meet the strategical and practical needs of the United States, its insular possessions and Alaska."

Such reasons as these explain the controversies over bits of territory which, except for use as landings for cables, stations for coaling, etc., are of no value whatever. The island of Yap in the

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[3] *Annals*, Vol. CXXII (November, 1925), p. 70.

Pacific Ocean was among those most recently brought into prominence.

Cable lines now reach all places of importance and these in turn are connected with interior points by means of telegraph and/or telephone. The American facilities are to-day far superior to their pre-War condition. Improvement is felt to be necessary, however, in those cases where only indirect connections exist or where control over messages en route passes into the hands of a foreign administration.

The obstacles encountered in the expansion of American cable and radio facilities are summarized by P. E. D. Nagle,[4] as follows:

1. "Technical considerations, such as unfavorable operating conditions or topographical obstacles to construction."

2. Political difficulties caused by the control exercised over communications by the government in some countries. When this is the case, the government will insist on some control over the cable or the radio station which is established in that country. Communications being often a government monopoly, the importance of this obstacle may be realized.

3. Economic. The excessive cost of construction, or excessive operating costs, due perhaps to a very long unbroken line or to the difficulty of making needed repairs, are important considerations. Competition with foreign companies long established in the field is another. Profitable investment in new cable or radio facilities is the only attraction to installation where private initiative must be depended upon, as in the United States. Unless, therefore, sufficient return may be expected, direct routes competitive with existing facilities, even though they be indirect, are out of the question. The newcomer has a difficult task due to the established business and experience of the older company. "Lack of sufficient financial return to make the investment attractive" is a third economic obstacle.

In transmitting cable messages, the speed of the service is restricted by the slowest portion of the line. As distance increases speed diminishes. Therefore, it is almost essential, from an operating point of view, to split a long line into several shorter lengths. Speed as well as profits will thereby increase.

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[4] *International Communications*, Bureau of Foreign and Domestic Commerce, Miscellaneous Series No. 121, p. 2.

A glance at the Cable Map will show the strategic importance, for communications purposes, of such places as Ascension Island, Cape Verde Island, Azores, Mauritius, Yap, Guam, Midway Island, Fanning Island, Fiji Islands and the Hawaiian Islands. The political control of such islands is of real importance to the cable or radio companies landing or operating there.

TABLE XII

Total World Cables[5]

Number on Map	Name	Number of Cables	Nautical Miles
	American		
1	All America Cables (Inc.)	45	24,872.5
2	Commercial Cable Co.	23	22,474.8
	Commercial Cable Co. of Cuba	2	1,552.5
3	Commercial Pacific Cable Co.	6	10,059.5
	Mexican Telegraph Co.	7	2,669.5
	United States & Haiti Tel. & Cable Co.	1	1,391.3
4	Western Union Telegraph Co.	40	30,183.0
	Total	124	93,203.1
	French		
	Compagnie des Cables Sud-Americains	5	3,674.9
5	Compagnie Française des Cables Telegraphique	28	14,739.5
	Total	33	18,414.4
6	Italian: Compagnia Italiana dei Cavi Telegrafici Sottomarini	12	9,937.3
7	German: German Atlantic Telegraph Co.	2	2,144.7
8	Danish: Great Northern Telegraph Co.	30	8,416.4
	British		
	African Direct Telegraph Co.	7	3,034.9
	Cuba Submarine Telegraph Co.	12	1,482.7
	Direct Spanish Telegraph Co.	3	1,182.1
	Direct West India Cable Co.	2	1,266.9
9	Eastern Telegraph Co.	97	54,403.9
10	Eastern & South African Tel. Co.	16	11,943.1
11	Eastern Extension Australasia & China Telegraph Co.	34	13,490.4
	Europe & Azores Telegraph Co.	2	1,059.0
	Halifax & Bermudas Cable Co.	1	851.8
	Indo-European Telegraph Co.	3	18.4
	River Plate Telegraph Co.	4	222.8
	Societe Anonyme Belge des Cables Telegraphiques	2	60.3
	West African Telegraph Co.	5	1,279.1
	West Coast of America Telegraph Co.	7	2,025.4
12	Western Telegraph Co.	39	28,873.5
	West India & Panama Telegraph Co.	22	4,355.0
13	Pacific Cable Board and West Indian System	15	18,251.9
14	Imperial Atlantic Cables	4	6,392.2
	Total	275	168,193.4
	Other: Compagnie Telegrafico-Telefonica del Plata	3	84.0
	Total private companies	479	300,393.3
	Total government mileage	2,742	55,764.5
15	German cables not yet apportioned	5	5,473.6
	Grand Total World Cables	3,226	361,631.4

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[5] *List of Submarine Cables of the World*, 12th ed., December, 1928, International Bureau of the Telegraph Union, Berne.

The government owned mileage shown in total is distributed among a large number of countries, France leading with 14,813 miles, Japan second with 8,071.5 miles, then the Dutch East Indies with 6,167.0 miles, Spain with 3,777.1 miles, Italy with 3,106.3 miles, Great Britain, Germany, China, India and Alaska each with from 2,000 to 3,000 miles. The governments of Greece and Norway own more than 1,000 miles each, and smaller lengths of cable mileage are owned by twenty-four other governments and territories.

On the basis of private cable mileage alone, it is apparent that British companies hold in excess of 50 per cent of the total world cables. American companies operate about 30 per cent of this total and own somewhat less than this proportion, since British companies own outright over 17,000 miles of the lines which the former operate.

Although the United States is the only great nation where communications are owned and operated entirely by private companies, there is a general tendency in the same direction in other countries. Foreign governments have generally monopolized internal telegraph lines but have only partly entered the cable and radio fields. In Germany, communications are owned and operated privately subject to state supervision. France has considered private operation. In Italy communication services have been generally consolidated, and this policy has also gained ground in Great Britain.

The Imperial Wireless and Cable Conference, held in 1928, had recommended that all communications facilities of the British Empire be welded together. A disturbing factor in the situation was the effective competition of beam wireless with the cable service for commercial purposes. It was deemed necessary to preserve the cables for emergency uses and it was felt that a consolidation would provide the necessary relief. After protracted negotiations, a merger of the Eastern Telegraph Company, Western Telegraph Company, and the Marconi Wireless Telegraph Company was finally agreed upon. A new company, called Cables and Wireless, Ltd., was formed to operate the merged services. Moreover, the Government leased to the new company its beam radio services and sold to it the Government's Pacific cable, West Indian cable, and two transatlantic cables listed in the table as private. Another company, Imperial and

International Communications, Ltd., that commenced operation on September 30, 1929, was organized for the purpose of taking over the traffic installations, rights, patents, contracts, and obligations of the merged companies. This important consolidation gives to Great Britain the largest communications unit in the world and provides an effective weapon with which to engage in the now world-wide competition for communication supremacy.

At the present time, American companies operate fourteen of the transatlantic cable lines. All of these land in Great Britain. The Commercial Cable Company owns six lines and the Western Union operates eight, six of which it leases from the Anglo-American Telegraph Company. One line, from Newfoundland to Sennen Cove, near Penzance, England, is owned by the Western Union and the company owns 260 of the 2,297 miles of line from Bay Roberts, Newfoundland, to Havre, France. The balance of this line is owned by the Anglo-American Telegraph Company. The British consolidation, Cables and Wireless, Ltd., operates two lines and the French Cable Company three lines.[6] In this section it is quite apparent that the United States is able to hold its own in the cable business.

In the case of Africa and the Far East, however, the British are largely in control of communications, although the United States facilities to the latter section are being expanded. The only cable line now operated by an American company is that of the Commercial Pacific Cable Company. This company, like the Commercial Cable Company and Postal Telegraph, belong to the Mackay system which on May 15, 1928, consolidated with the International Telephone and Telegraph Corporation. The latter concern is of comparatively recent origin and through the affiliations which it has acquired it manufactures equipment and builds, purchases, and operates telephone and telegraph services wherever it can obtain a foothold. In 1927 the Western Union was reported to be planning a new transpacific cable from Seattle via the Great Circle route to Japan, China, and the Philippine Islands, but to date no definite steps have been taken.[7]

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[6] One each of the British and French lines is a former German cable, disposition of which has not been made.

[7] *New York Times*, Oct. 9, 1927. Under date of Jan. 21, 1930, the company stated in a letter that there had been no development of this project as conditions were not encouraging.

By acquiring the Eastern and the Eastern Extension companies, Cables and Wireless, Ltd. dominates the Asiatic and Australian traffic, and through the Western Telegraph Company it practically monopolizes the African cable business.

In the South American trade it was necessary for many years that messages between the east coast and the United States be sent through England. On the west coast, however, All America Cables, Inc., had, in the late eighties, pushed across the Isthmus of Panama and along the "back door" of South America. Shortly after the War the same company established a service to Buenos Aires by carrying its lines over the Andes from Valparaiso, Chile. To date it has been extended up the east coast as far as Rio de Janeiro. The Western Telegraph Company is now the only concern which possesses a submarine cable along the entire east coast of South America. This line lands at Barbados from which the Western Union makes connections with Miami, Florida.

An expansion of American facilities by laying a high-speed cable along the east coast is reported to be contemplated by the International Telephone and Telegraph Corporation.[8] It is in the Latin American field that perhaps the keenest competitive situation exists, so far as the cables are concerned.

In the wireless business, a communication facility of expanding significance, the United States and Great Britain are about evenly divided in their control. The two great companies are Cables and Wireless, Ltd. (operating the Marconi Wireless Telegraph Company's circuits) and R. C. A. Communications, Inc.[9] A huge merger of the latter and the International Telephone and Telegraph Corporation was prevented by Section 17 of the White (Radio) Act which prohibits the merger of wire and wireless companies engaged in international service.

As a phase of the expanding American transpacific communications facilities, the International Corporation, through its Mackay affiliations, is constructing a radio service from San Francisco to the Far East. The first link in this service was opened on May 1, 1929, to Honolulu "and will be extended to other Pacific points through another station at Manila, Philippine Islands, now nearly completed.''[10]

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[8] Letter from International Telephone and Telegraph Corporation, June 7, 1930.

[9] Formed on Jan. 5, 1929, by Radio Corporation of America, to carry on the commercial service.

In radio telephony, the United States is clearly ahead of all rivals. Through the International Telephone and Telegraph Corporation, control is extended gradually over the telephone system in many foreign countries, and often over the radio service as well. The control over wireless extends down the west coast of South America and from São Paulo down the east coast, while the telephone systems of Argentina, Chile, São Paulo, and one-half of those of Uruguay are also controlled. Various systems have been acquired elsewhere, notably in Spain, Cuba, and Mexico.

REGULATIONS GOVERNING CABLE AND RADIO COMMUNICATIONS

The international character of messages transmitted between the nations of the world early dictated the necessity of arriving at some uniform understanding. Consequently an International Telegraph Convention was entered into in 1875 at St. Petersburg. Then in 1906 and 1912 agreements were negotiated at Berlin and London, respectively, under the title of International Radiotelegraphic Convention. Since these related principally to safety at sea, it was not until the Washington Convention of 1927 that the broader questions of international use and allocation of wave frequencies were agreed upon. The administration of these conventions is vested in the International (or Central) Bureau of the International Telegraph Union at Berne. A division of radio services has been created in the Bureau to handle the administration of this facility.

These two compacts, together with subsequent alterations, govern to a large extent the regulations concerning international cable and radio communication. Although the United States has never become a party to the telegraphic convention, the fact that its provisions apply generally throughout the world has required American cable companies to conform to the conditions elsewhere accepted.

Cable and Radio Languages.—At the International Telegraph Conference held in 1925 at Paris, an effort was made to change the existing language requirements as they related to pronounceability and also to introduce five-letter code words. At that time only ten-letter code words were authorized at regular rates. A committee was appointed and it met in 1926 at Cortina d'Ampezzo to study the question. The committee recommended a change from the ten- to five-letter code words.

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[10] Letter from International Telephone and Telegraph Corporation, June 7, 1930.

Pending the occurrence of the International Telegraph Conference to be held at Madrid in 1932, at which revision of the regulations based on the so-called Cortina report will be taken up, a conference was held in 1928 at Brussels to consider certain immediate changes. These changes partly embodied the recommendations of the Cortina committee. On October 1, 1929, these revisions in the classification and description of the languages which govern cable (and radio) messages became effective. The types of languages authorized are divided into plain and secret. The latter, in turn, consists of code and of cipher language. Code may be either Category A (ten-letter system) or Category B (five-letter system).

Plain language is that which presents an intelligible meaning in one or more of the languages authorized for international telegraph correspondence, each word and each expression having the meaning normally attributed to it in the language to which it belongs. The maximum length of words permitted in plain language is fifteen letters per word; except for bona fide commercial marks or abbreviations in current use, registered addresses, or check words in banking telegrams, messages must be wholly in plain language. Union of plain language words is prohibited. Messages are charged at the rate of fifteen letters per word or authorized compound word but check words in banking telegrams must not exceed ten characters in length.

Secret language consists of code and cipher. Code is composed of artificial words or bona fide words not having the meaning normally attributed to them in the language to which they belong and accordingly not forming comprehensible phrases in one or more of the languages authorized for telegraphic correspondence in plain language, or it may be a mixture of bona fide and artificial words.

In Category A (ten-letter system) the maximum length of words permitted is ten letters; mixtures of plain code and cipher language words are permitted and code books must be shown if requested by authorized offices. Words of five letters must contain at least one vowel. Words of six, seven, or eight letters must contain a minimum of two vowels; at least one vowel must appear in the first five letters and at least one in the remainder of the word. Words of nine or ten letters must contain a minimum of three vowels, the arrangement of the vowels being specifically designated. Union of plain language words is prohibited.

Messages are charged at the rate of ten letters per code word. Plain language words inserted in code text are also counted at the same rate. Cipher language words in the text are charged at the cipher rate (five characters per word).

In Category B (five-letter system) a new classification is provided. The maximum length of words permitted is five letters and there are no conditions or restrictions as to the construction of words, except that as in Category A, certain accented letters are prohibited and the combinations ae, aa, ao, oe, ue, ch are each counted as two letters. Union of plain language words is permitted, but only plain and code language words may be mixed, figures or groups of figures except bona fide commercial marks being prohibited. Words are counted at the rate of five letters per word and are charged for at ⅔ of the full (plain language) rate in the extra-European régime and at ¾ the full rate in the European régime. Telegrams from the United States to all countries except Canada and Mexico fall within the extra-European régime. A minimum charge for four words is compulsorily collected. Plain language words inserted in the code text are counted at the rate of five letters per word.

The last classification, cipher language, consists of (*a*) Arabic figures, groups or series of Arabic figures having a secret meaning, or (*b*) words, names, expressions, or combinations of letters not fulfilling the conditions of plain language or code language. There is no fixed maximum length of words or groups and no conditions or restrictions as to the construction of groups are imposed. The mixture of plain and cipher language words is permitted while the union of plain language words is prohibited. Messages are charged at the rate of five figures or letters per word, and at the full rate tariff. Plain language words inserted in cipher text are counted at the rate of fifteen letters per word.

The preceding language regulations are intended to encourage the wider use of five-letter words, since the Cortina committee claimed that there is far less chance of error than with ten-letter words. Moreover, the old test of pronounceability of code words according to one of eight languages is replaced by a uniform vowel combination rule.

In counting the address, the names of delivery offices, countries, provinces, states, or other territorial subdivisions are each counted as one word; while proper names in the address or signature go at the plain language count. The names of places should conform to the designations published in the International List of Telegraph Offices. For example, it is unnecessary to say "London, England," since the list authorizes merely the word "London" in such case.

Cable (and radio) messages may be prepaid; or may be repeated at a charge much lower than the regular rate. Notice of the date and time of delivery of cable or radio messages may be secured by writing the indicator P C for telegraphic report, or P C P for report by mail immediately before the address in a message. Extra charges are of course incurred.

Cable Codes.—Reference has been made several times to the use of codes and code language. Cable codes are lists of words that convey a secret meaning which many times is an entire phrase. Codes are published in books, most of them being offered for sale, and are widely used in commercial transactions, while others are private.

Regulations of the International Telegraph Convention prescribe the methods whereby codes, either for general commercial or for private use, may be approved. The Central Bureau at Berne, which decides the acceptability of codes, has authorized the Post Office Departments of Great Britain, France, and Germany to inspect cable codes for the purpose of determining their conformity to the requirements of cable language. The Central Bureau at Berne publishes periodically a list of approved codes, the number at present being approximately one hundred and twenty-five, all but about twenty of which are general commercial codes. In addition, there are many codes which have not been submitted to the Central Bureau for approval.

In view of the great number and diversity of codes, it is not an easy problem to decide which to select as best meeting the needs of a particular concern. This problem becomes even more important from the American standpoint when it is realized that according to the report of the Cortina committee 87½ per cent of the cable and radio messages exchanged between the United States and the continent of Europe are in code and only 12½ per cent in plain language.

"Generally speaking a cable user demands of a code (*a*) adaptability to his correspondence, making it easy for him to code and decode his messages; (*b*) economy in cable charges; (*c*) conformity to conditions governing cabling so that there is a minimum liability to mutilation; and (*d*) acceptability on all communication systems, making it possible to use the code to or from any city in the world. At first glance it would seem that all of these conditions might be met by a single code, but in practice the most comprehensive codes are rarely the most economical, while those which conform strictly to the cable rules are apt to be less satisfactory from the standpoint of the cable user than are some of the others."[11]

Included among the commercial codes are those issued in different languages, some being in more than one language. Some codes are universal, some are phrase codes, while others specialize in five-letter words or cipher expressions. There is also a group of commodity or technical codes, like *The Standard Shipping Code, Robinson's Grain Code, Bensinger Iron and Steel Trade Code, Oil and Gas Code, The Jeweler's Telegraphic Code, Peterson's International Banking Code Five Letter Words, Okay Lumber and Log Code, Meyer's Atlantic Cotton Code;* and standard codes like *A B C Code,* 4th, 5th and 6th Editions, *Western Union Telegraphic Code, Lieber's Standard Code, Universal Trade Code, Commercial Telegraph and Cable Code, General Telegraph Code, Bentley's Complete Phrase Code, Scott's Code, Mosse (Rudolf) Code, Bentley's Telegraph Ciphers, Whitelaw's Telegraph Ciphers,* and many others.

Private codes may be worked out by a concern to fit certain peculiar problems or to meet all of its cable or radio requirements. For example, almost every exporter will find it necessary to devise code words to indicate the various products carried in his catalogue, and when salesmen or buyers or branches are employed, additional uses for private code words will be felt. Due to the complexity of the problem, however, it is advisable to seek the advice of officials of the cable and radio companies. As mentioned in connection with the discussion of correspondence, it is highly desirable for a foreign trading concern to place on their letter-head the names of the codes which they are prepared to use.

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[11] *International Communications and the International Telegraph Convention,* Bureau of Foreign and Domestic Commerce, Miscellaneous Series No. 121, p. 12.

In order to economize in the number of words required to indicate properly the address, it is customary to devise some word of ten letters or less as a cable address. The use of this word in conjunction with the city where located is sufficient description to enable the proper delivery of the message. Such addresses are now filed with the Central Bureau for Registered Addresses in New York. A fee of $2.50 per year is charged for each address registered. In this way, a cable or radio message to Herpalco, Chicago, would be known to belong to the Hercules Power and Light Company, 643 Back Street, Chicago, Illinois. The economy in words and therefore charges is apparent. On the letterhead of a business house, in addition to the codes used it is important to show also the cable address.

Services and Rates.—There is no assured uniformity in the practices of various cable and radio companies with respect to the services they offer and the rates which apply on messages to foreign points. Subject to these limitations, the following private services are variously available.

Ordinary or full-rate messages are transmitted promptly (subject to higher classes) to the addressee and any of the cable languages may be used. This is the usual way in which messages are transmitted.

When messages are not so promptly needed, they may be sent on *deferred* service at rates approximately one-half the full rate, provided they are written in plain language. They are accepted with the understanding and on the condition that their transmission may be deferred or subordinated to full paid or urgent traffic for a period not to exceed twenty-four hours. The message, moreover, may be written only in the language of the country of origin or of the country of destination or in French. This class of service is available for messages with most European countries and with some other parts of the world.

Urgent messages may sometimes be sent and these take precedence over all other commercial traffic.[12] When so offered, the rate is from two and one-half to three times the ordinary charge. Some companies also offer a "partly urgent service" which provides for preferred service on the radio or cable and "urgent" service on the foreign telegraph system.

At approximately one-third of the ordinary rates, *cable and radio letters* are accepted at any time during the day for delivery the following morning. The rules relating to language applied in case of deferred messages also govern this service.

Similarly, *week-end letters* may be sent at approximately one-quarter rate. These are accepted at any time during the week, prior to midnight Saturday, for delivery on Monday morning.

It should be remembered that all of the above services are not available on all lines and to all places.

The charges for cable and radio messages are generally computed on the basis of published tariff rates per word for each particular destination. During the past few decades rates have been materially reduced and in addition to a lack of uniformity for every point, they are subject to change without notice.

It is interesting to note that the radio is claimed to have saved the American public $30,000,000 for overseas messages during the period 1920 to 1928. An official of the Radio Corporation of America says: "For the first three years of the development of our service, radio rates averaged 25 per cent below existing competitive cable rates. At the end of that period the cable systems found it necessary to reduce their rates to the level of radio. This was the first reduction in cable rates in 38 years."[13]

The radio-telephone rates for calls between the United States and Europe are also subject to great change. Rapid developments in this service as well as extensions thereof are contemplated. When first opened to the public on January 7, 1927, the charge between New York and London was $75.00 for an initial period of three minutes and $25.00 for each succeeding minute. The rate was later reduced to $45.00 and $15.00 for each additional minute. In case of calls to particular persons who, through no fault of the radiophone service, cannot be reached a report charge of $5.00 is made. The rates to other European points are slightly higher than the British tolls, those to Germany, for example, being $50.25, to Paris, Amsterdam, and to The Hague $48.75.

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[12] The order of precedence of cable and radio messages is government, company service, and then urgent, if any.

[13] *The Radio Industry* by leaders of the industry, pp. 103-104.

For purposes of illustration, the following rates are shown:

TABLE XIII

Comparison of Typical Cable and Radio Rates from New York to Foreign Destinations

To	Via Cable	Via Radio
Great Britain and Ireland ...	.20	.20
Germany	.25	.25
Greece	.35	.35
Colombia	.45	.45
Rio de Janeiro	.42- .50	.42
Argentina	.42- .50	.42
Chile	.42-.50- .62	.42-.54
Hong Kong	.87-1.00	.90
India	.61	.46
Japan	.87	.87

COMPARISON OF COMMUNICATION FACILITIES

The cable, wireless telegraphy, and radiotelephony are to be thought of as complementary rather than competitive services. Each is especially adapted to a distinct type of service.

The cable enables the transmission of "record communications by means of the written message."[14] It is a point-to-point, two-way service between individuals. Radiotelegraphy, on the other hand, transmits the same signals in circumstances and to places which the cable does not reach, as, for example, many places in Central America. Not only does it reach across the seas in any direction, but it also spans great barriers and reaches the airplane, the ship at sea, and moving objects. It is essentially a broadcasting one-way service, with long-wave stations being supplemented by short-wave beam facilities. Even where the radio competes commercially with the cable, a difference in service or in rates may exist. Usually the radio is somewhat cheaper. On the other hand, money transfers may not be made by radio, whereas they are part of the cable service. To many points, direct cable communication does not exist so that several connections may be necessary and in lieu thereof the user may utilize a direct radio service. In such instances, the latter possesses an advantage provided the demand for accuracy and secrecy can be met.

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[14] Col. A. H. Griswold, in *Proceedings, Sixteenth National Foreign Trade Convention*, 1929, p. 82.

It is interesting to note that the projected plan of the International Telephone and Telegraph Corporation to establish radio service in addition to the wire service of the Commercial Pacific Cable Company was prompted by the wisdom of employing radio (1) to remove the peak loads on its cable, (2) in case of alterations or repairs to the cable, and (3) to transmit the deferred and cheaper classes of service.[15]

Radiotelephony provides rapid oral communication with all of the advantages this implies. The rates charged indicate the urgency which for commercial purposes will prompt the use of the radiotelephone service. Because of the relatively few channels of atmosphere which may be used without creating interference, the likelihood is that this service will continue to be expensive.

Moreover, both radiotelegraphy and radiotelephony are affected by electrical disturbances or static in the atmosphere. This is particularly disadvantageous in the latter case. Continued service cannot be guaranteed as readily as by submarine cables where breaks are seldom so severe as to cripple a line. The telephone service is also subject to fading and all such radio broadcasting, whether telegraphic or telephonic, does not possess the secrecy of the cable. Scientific research is progressing rapidly, however, and it is expected that means will be provided whereby spoken messages which are now "scrambled" in order to render them unintelligible en route, may be accurately placed back into their original order and meaning immediately upon reception.

On the other hand, wireless cannot be interrupted by cutting or breaking as is the case with cables and developments in wireless methods of transmission are no longer in their infancy. Even now a few ocean liners are equipped with wireless telephone apparatus. More transatlantic radio channels are planned and short-wave radio transmission is being perfected and applied.

With the announcement that a means of constructing a submarine telephone cable has been perfected, aided by the use of permalloy, the future of overseas telephone service, on a basis comparable with land service, appears assured. "This cable, when constructed and laid, will not only substantially increase the facilities for transatlantic communication but will also provide a circuit of maximum reliability."[16] It is said to be capable of transmitting five hundred words per minute.

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[15] *New York Times*, Oct. 9, 1927.

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[16] *Annual Report of the American Telephone and Telegraph Co.*, for the year 1928, pp. 8-9.

CHAPTER XXII

COÖPERATIVE EXPORTING IN THE UNITED STATES

Coöperation in exporting from the United States, as discussed in this chapter, is the voluntary combination of independent and competitive business concerns, each of which retains its identity, for the purpose of mutually developing foreign markets. Prior to 1918, competing American enterprises contemplating such action were at once faced with the possibility of prosecution under the Federal anti-trust laws. This illegality, as far as export trade is concerned, was removed, under certain restrictions, by the Webb-Pomerene or Export Trade Act which was approved on April 10, 1918. The prohibition against coöperation among competitors who are engaged in domestic or in the import trade continues, however.

The specific reasons why the lifting of the anti-trust ban should prove beneficial in the promotion of American export trade were revealed in a survey conducted by the Federal Trade Commission. The report declares in part that "while the United States has been absorbed in domestic development, other nations have followed definite policies for the expansion of their foreign trade and have perfected efficient means for the purpose in view."[1] After briefly sketching the transportation and financial tie-ups which have been developed abroad, the commission declares that "in seeking business abroad American manufacturers and producers must meet aggressive competition from powerful foreign combinations, often international in character."[2]

> If Americans are to enter the markets of the world on more nearly equal terms with their organized competitors and their organized customers, and if small American producers and manufacturers are to engage in export trade on profitable terms, they must be free to unite their efforts.
>
> Without any export organization, foodstuffs and raw materials can readily be sold at some price but to avoid needless expense in

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[1] *Report on Coöperation in American Export Trade*, Part I, Federal Trade Commission 1916, p. 3.

[2] *Ibid.*, p. 4.

distribution, to meet formidable foreign buying organizations, and to insure profitable export prices, coöperation among American producers of such commodities is desirable.

In the sale of factory products, coöperation is even more desirable. Such goods must be advertised, demonstrated, and a market created abroad, often in the face of the keenest competition from great combinations of foreign manufacturers. Obviously only strong organizations can undertake this contest.[3]

In conclusion, the commission finds:

(1) That other nations have marked advantages in foreign trade from superior facilities and more effective organizations.

(2) That doubt and fear as to legal restrictions prevent Americans from developing equally effective organizations for over-seas business and that the foreign trade of American manufacturers and producers, particularly the smaller concerns, suffers in consequence.[4]

On the basis of this report of the Federal Trade Commission, the Webb-Pomerene law was enacted by Congress.

PROVISIONS AND INTERPRETATION OF THE WEBB-POMERENE ACT

"Export trade" is defined in the act as "solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation." By its very essence, production is excluded from the meaning of "trade or commerce." The question as to what constitutes "in the course of being exported" depends upon the interpretation adopted by the Federal Trade Commission, to which the administration of the act has been delegated. This phrase was defined by the commission on July 31, 1924, in answer to questions on disputed points which were submitted for interpretation by the Silver Producers of the United States. In accordance with the opinion expressed at that time, it is now considered legal for export associations merely to allot export orders among its members or merely to fix "the prices at which its individual members shall sell in export trade." The commission further ruled that "there is nothing in the act which prevents an association formed under it from entering into any coöperative relationship with a foreign corporation, for the sole purpose of operation in a foreign market." This view definitely opens the door to international coöperation between American associations and foreign concerns. Sales made to export houses located in the United States are also authorized, "if the product sold is intended for, is actually marked for, and enters into export trade."

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[3] *Op. cit.*, p. 8.

[4] *Ibid.*, p. 3.

The act permits coöperation in exporting "from the United States or any Territory thereof to any foreign nation." Webb associations may, therefore, be organized in territories of the United States, and if formed in these territories, they may ship to foreign countries but not to the United States or other American possessions. Moreover, associations formed in the United States may not ship to any of the American possessions.

An "association," as contemplated in the act, is meant to include "any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations." Entire freedom to combine in any manner whatsoever is thereby authorized.

Sections 2, 3, and 4 of the act declare the precise extent to which exemption from the anti-trust laws is authorized. The general intent of the act is to retain the long-established anti-trust policy at home and to alter it only for the purposes of export trade. Section 2 declares the Sherman Law to be inoperative against export associations formed under the act, provided their activities cause no "restraint of trade within the United States," nor "restraint of the export trade of any domestic competitor of such association," nor any artificial or intentional enhancement or depression of "prices within the United States of commodities of the class exported by such association," nor any substantial lessening of competition within the United States, nor any restraint of trade therein.

Under Section 3, the prohibition contained in the Clayton Act is removed in order that any corporation may acquire stock of export associations "unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States."

Section 4 provides, however, that the Federal Trade Commission Act, prohibiting unfair methods of competition "shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though acts constituting such unfair methods are done without the territorial jurisdiction of the United States."

This section obviously aims to enforce the same standard of commercial morality whether American enterprises are engaged in trade at home or abroad. As interpreted by the Federal Trade Commission, unfair methods include among other practices, the use of misleading labels, misrepresentation, full line forcing, and unfair discounts. In one instance, for example, the commission caused the discontinuance of labels on condensed milk exported to Mexico on the ground that they were misleading. In addition, the commission entertains complaints filed by foreign buyers of American products and occasionally considers cases arising from the import trade. These categories include such accusations as shortage, overcharge and improper quality. During the fiscal year 1928-29, the commission handled a total of sixty-two foreign trade complaints of various sorts, none of which involved Webb-Pomerene associations.

This phase of the act in particular is sufficient evidence of the intent of Congress to place American exporting combinations on a legal parity with foreigners but not to lower the standards of American business practice. This position tended to allay the suspicions which were aroused in some foreign countries when, by a cursory examination of the act, it appeared that discrimination against foreigners was authorized by permitting business practice abroad which the law prohibits at home.

Section 5 defines the procedure to be followed in (1) registering an export association at the time of its organization and (2) thereafter filing the annual report of the association. The export trade section of the legal division of the Federal Trade Commission, which actually administers the law, has devised forms on which the required information is to be entered.

The initial report, to be filed within thirty days after an association has been formed, calls for the following data:

1. Name and address of association;
2. declaration of intention to engage in export trade as defined in Section 1 of the law;
3. location of office or places of business;
4. names and addresses of all officers and directors;
5. names and addresses of all stockholders or members;
6. statement describing the methods and plan of doing business, the relations existing with other associations, corporations, and individuals, and such other information as the company or

association deems proper for the export files of the Federal Trade Commission;

7. the products which the association intends to export;
8. amount of capital authorized and paid in;
9. if a corporation, a copy of the certificate or articles of incorporation and by-laws, and if unincorporated a copy of the articles or contract of association.

The annual report requires the same information as called for in items one to six inclusive above; and, in addition, all amendments to, and changes in, the articles or certificate of incorporation or articles or contract of association and by-laws, since the last annual report to the Federal Trade Commission. These statements are to be made under oath.

Failure on the part of an association to comply with the requests of the commission for information in the broad sense contemplated in the law, removes from such association "the benefit of the provisions of section two and section three of this Act, and it shall also forfeit to the United States the sum of $100 for each and every day of the continuance of such failure." The enforcement of the Webb-Pomerene Law as far as the supervisory power of the Federal Trade Commission is concerned, is effectively provided in this simple manner.

The commission is also required to investigate associations when it has reason to believe that the law, in one way or another, is being violated. If this proves to be true, recommendations are to be made "for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law." In case such recommendations are not obeyed, legal action is to be instituted. So far, no formal complaints or orders have been issued and there has been no litigation in the courts involving the construction or operation of the law.

ACTIVITIES UNDER THE WEBB-POMERENE ACT

A study of the number of associations formed since the passage of the Webb-Pomerene Act indicates an initial impetus, followed by a slump and then a steady advance. The growth in business of the last three years would appear to presage a further interest in and operation under the export trade act.

TABLE XIV

NUMBER OF WEBB-POMERENE ASSOCIATIONS REGISTERED AND VALUE OF PRODUCTS EXPORTED[5]

Year	Number Registered	Value of Products Exported
1918-19	92	Not given
1919-20	43	Not given
1920-21	48	$221,000,000
1921-22	56	Not given
1922-23	54	Not given
1923-24	50	$153,500,000
1924-25	50	140,000,000
1925-26	51	165,500,000
1926-27	55	200,500,000
1927-28	56	300,000,000
1928-29	57	476,000,000

Taking the reports for 1928-29 as a basis, the character of the export trade benefiting most from the act may be seen. In that year, "lumber and wood products, including pine, fir, redwood, walnut, hardwoods, doors, plywood, wooden tools, barrel shooks, clothespins, and naval stores exported by associations, totaled about $28,200,000; metal and metal products, copper, zinc, iron and steel products, machinery, railway equipment, pipes, valves, and screws, about $267,600,000; chemical products, including caustic soda, soda ash, liquid chlorine, soda pulp, paints and varnish, about $3,000,000; raw and semimanufactured materials such as phosphate rock, sulphur, and petroleum, $17,500,000; manufactured products, such as paper abrasives, rubber products, cotton goods and linters, buttons and miscellaneous, about $79,500,000; and foodstuffs, such as milk, meat, sugar, flour, rice, canned salmon, dried and fresh fruit, and sardines, about $80,400,000.[6]

Advantages Realized.—Numerous advantages have been realized by the associations operating under the act. These include (1) stabilization of export prices. Copper Exporters, Inc., for example, are reported to have formed an agreement with British, Belgian, and German interests for the purpose of fixing an "official" price of copper c.i.f. Hamburg;[7] (2) reduction of selling costs so that small concerns, unable individually to branch out into foreign markets, are well able to pay their share of expense involved in coöperative efforts; (3) standardization of grades, contract terms and sales conditions. The Walnut Export Sales Company, for example, established a uniform brand and rigidly maintains the quality by careful inspection; (4) prompt and efficient filling of orders; (5) elimination of hurtful practices. The policy of the board of directors of a dried fruits export association "permits it only to do those things which have a beneficial reaction on the business, thereby helping both buyer and seller"; (6) combating combinations of buyers which might be in position to play one exporter against another. A provisions export association claimed this as one of its outstanding achievements; (7) storage of seasonal products, thus averting an oversupply and consequent low prices; (8) consolidation of cargoes and chartering of steamers for better service and lower transportation costs; (9) joint advertising and exploitation work; (10) adjustment of claims; (11) bidding on and securing large orders for shipments over a long period; (12) filling orders for a variety of grades, styles, and dimensions by the allocation of orders among the members; (13) division of territory, not only among members but also with foreign competitors. Thus a tin plate export association is reported to have entered into an agreement with the tin plate producers of South Wales whereby the tonnage of foreign markets is allocated, the British to have 70 per cent and the American industry 30 per cent of the business.[8] Additional advantages of coöperative action may be conjured, but those mentioned are drawn from the experience of the concerns operating under the Webb law. The importance of the decisions of the Federal Trade Commission, dated July 31, 1924, and mentioned previously, may be clearly observed in this summation.

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[5] Compiled from annual reports of the Federal Trade Commission.

[6] *Annual Report*, Federal Trade Commission, June 30, 1929, p. 124.

[7] *Harvard Business Review*, Vol. VI, No. 3 (April, 1928), p. 322.

Difficulties Experienced.—From the statistics of commodities exported by associations in 1928-1929, presented earlier in this chapter, it is clear that the Webb-Pomerene Act is particularly adapted to the needs of producers of raw and bulky products, while manufacturers of finished articles are less attracted to the legalized coöperative plan.

In the case of raw and bulky products, individual attention to particular brands or qualities is not required, since raw materials may be grouped together with a loss of identity without adversely affecting their marketability. However, " in the case of specialty goods of the branded or trade-marked type, any form of syndicated marketing is extremely difficult of management. Friction was constantly developing between the more aggressive and more lethargic members.''[9]

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[8] *Economist*, Sept. 22, 1928, p. 504.

Several plans have been evolved for handling the brand problem.

> In one company, the policy is for the members either to sell abroad under their own brands or to join with a group of fellow-members and sell under a uniform brand. Each brand is represented in foreign countries by agents who solicit foreign business and usually send the orders through the association. When this plan is followed, the association is actually an additional middleman through whose hands the business passes. In this capacity, necessary functions may be performed for the account of the member and at the same time individual or group brands are adequately protected.
>
> Another concern solved the brand problem by substituting guaranteed grades, designated by an association trade-mark, for individual brands. Prior to the organization of this Webb association, the export business of the different members had been conducted entirely on the basis of brands, and grades were not determined in any other manner. The association promptly elevated the grade to a leading position and then adopted a brand for this rigidly maintained and inspected quality.[10]

An inherent difficulty which some associations experienced lay in the absence of a fundamental ability to coöperate. Bickerings and competitive psychology, engendered in the domestic market, could not be successfully subjugated in the interest of coöperation for export. Sometimes the shouldering of the export business proved an excessively heavy burden. One association declares, for example, that early in its corporate life it was found ''very difficult to represent a whole industry in exports.'' This difficulty, the association significantly reported, is ''due solely to the individuals in the industry.'' Some associations have suffered, on the other hand, from poor management and have gone out of business. Some began with a great deal of enthusiasm and optimism, and later failing to attract a sufficient number of members into the organization, have been dissolved. Still other associations encountered such keen competition abroad that in spite of the combined front which the manufacturers were able to present, they were practically driven from the foreign markets. Several pearl button export associations, for example, have felt this pressure from Japan. Finally, many manufacturers of branded and trade-marked goods that endeavored to engage in export trade on this coöperative basis, found the inherent difficulties of adequately representing individual interests in such a combined program to be insurmountable. It is for this reason that to-day we witness under the act an expansion of coöperative exporting in certain raw and semifinished products. In only a relatively few instances has success crowned the coöperative efforts of manufacturers of finished, branded articles.

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[9] From address by Dr. Julius Klein at group luncheon of the Foreign Commerce Department of the Chamber of Commerce of the United States, May 8, 1928.

[10] Roland L. Kramer, in *Export Trade and Finance*, Vol. XIX, No. 17 (Oct. 27, 1928), p. 8.

Operation.—From a study of the act, it will be seen that the procedure for organizing a Webb-Pomerene association is indeed simple. The particular form of organization may range from a loose agreement to a formally incorporated company. Some associations operate in a simple, easy manner while others are complex and more elaborate. Those formed to conduct certain of the advisory functions, *e.g.*, allocation of orders or territory, fixing prices, terms, and conditions, and not to handle sales, may ordinarily be organized in a simple way.

Several of the lumber associations follow a plan which in its general outline provides for a corporation, the stock of which is subscribed by the members in equal amount, thus assuring an equal voice in management. Membership is confined to bona fide manufacturers. Each member is then assigned a quota, based upon productive capacity and location, and business is distributed to the members accordingly. The association handles the foreign cargo shipments of manufacturers for a brokerage commission sufficient to enable the company out of its net earnings to carry on an energetic and comprehensive plan for increasing the foreign trade in the particular product. The company makes all sales as well as collections, the latter being guaranteed by the association. Expenses are met from the brokerage commissions.

Another lumber concern follows a similar plan, except that sales are made outright to the association on the basis of quotations f.o.b. mill, wharf, or on dock at seaports. Prices for the exported lumber are fixed periodically by the directors. Still another variation provides for the allocation of orders upon the basis of stock ownership. If this plan were followed, for instance, in the first example cited, in which the quota is assigned according to productive capacity, orders would be equally divided, since the stock is subscribed by all members in equivalent amount.

Still another basis of apportionment of orders is by means of stock on hand as shown by periodical reports submitted by each member. In this way, sales are distributed according to the availability of stock for export shipment.

A large association comprising packers and merchants of dried fruits[11] has provided the following data which is presented as an example of one way in which a Webb-Pomerene association may be successfully organized and managed. The Association was formed for the sole purpose of engaging in export trade in dried fruits, and "to effectuate this purpose shall have power to do any and all things necessary or incidental thereto, including the following":

(*a*) to buy, sell, or otherwise deal in dried fruits in export trade, for its own account or for the account of any of its members.

(*b*) to act commercially and generally as agent for its members or for any of them in the conduct of export trade in dried fruits or in the conduct of any transaction in, or in the course of, such export trade.

(*c*) to provide by contract or otherwise for the inspection and weighing of all or any dried fruits sold, shipped or handled by its members or any of them in, or in the course of export trade and for the issuance of appropriate certificates of inspection or of weight.

(*d*) to arbitrate or provide for arbitration of all or any disputes arising in, or in the course of, export trade in dried fruits, to establish and maintain committees, boards or other tribunals for the arbitration of any such disputes and to provide by agreement or otherwise for arbitration of any such disputes by any Committee, board or other tribunal, whether or not established by the Association.

(*e*) to formulate and prescribe terms of sale to be adhered to by its members and forms of contracts to be used by its members in the conduct of their export trade in dried fruits or in the making of sales in, or in the course of such export trade.

(*f*) to formulate and prescribe rules, regulations and policies to be adhered to and obeyed by its members, restricting or otherwise regulating the exportation by its members or any of them of dried fruits on consignment, or sales by them or any of them of dried fruits in, or in the course of export trade to persons, firms, or corporations who in respect of such, or of any other transaction may be agents or brokers of the member or members making such sales.

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[11] The California Dried Fruit Export Association.

(*g*) to formulate and prescribe rules, regulations and policies to be adhered to and observed by its members, standardizing or otherwise regulating matters and practises relating to or involved in export trade in dried fruits; as for instance, standardizing grades or goods or sizes or styles of containers, establishing uniform practises regarding the amount, defrayal, invoicing, or collection of charges for strapping, cartage, and like services, establishing uniform price differentials for goods in different styles or sizes of containers, and the like.

(*h*) to obtain and disseminate among its members, information relative to or of value in promoting the export trade in dried fruits.

(*i*) to appoint agents and representatives and to maintain offices in all or any parts of the world, and—

(*j*) generally, to make all such agreements and to do all such lawful acts and things as may promote the export trade, and particularly the export trade of its members, in dried fruits.

The membership of the Association consists of a Packers' Division and a Merchants' Division.

Any member of the Association actually operating for his or its own account and with normal regularity, one or more plants for the packing of dried fruits and regularly engaged in selling dried fruits in export trade shall be a member of the Packers' Division. Any member of the Association not qualified to be a member of the Packers' Division but actually engaged in selling dried fruits in export trade for his or its own account, shall be a member of the Merchants' Division.

Any member of the Association, by writing delivered to the Association between December 15 and December 31, both inclusive, in any year may withdraw from the Association.

The Association may be dissolved and its existence terminated at any time by the written agreement of three-fourths or more of its members.

The business and affairs of the Association shall be managed and its powers exercised by a Board of Directors which shall consist of nine Directors, six of whom shall be elected by the members of the Packers' Division and three of whom shall be elected by the members of the Merchants' Division.

Meetings of the members of the Association and of the members of each Division of the Association shall be held annually and special meetings may be called.

As a condition precedent to membership in the Association an initial fee, subject to change in the by-laws, is to be paid. For members of the Packers' Division the fee is $100.00, and for members of the Merchants' Division it is $50.00.

Each member shall report to the Secretary of the Association in writing as and when any dried fruits are shipped by such member in export trade on consignment, the destinations to which such goods are shipped and the quantity in pounds of each variety so shipped to each such destination. Each member shall report to the Secretary of the Association in writing on or before the 10th day of each calendar month, the quantity in pounds of each variety of dried fruits shipped by such member in export trade and otherwise than on consignment during the preceding calendar month.

Confidential data of the business of any one member is guarded by restrictions on the power of the Secretary to give publicity to the full reports submitted to him.

Each member shall on or before the tenth day of each calendar month pay to the Association such sum (not exceeding 25 cents a ton) as shall be fixed from time to time by the Board of Directors in respect of all dried fruits shipped by such member in export trade (whether on consignment or otherwise) during the preceding calendar month, exclusive of sales to other members of the Association for exportation by such other member.

The Board of Directors shall have power to fix from time to time the amounts payable by members for services rendered by the Association or at its instance, as for the inspection or weighing of dried fruits, the arbitration of disputes, etc.

The Board of Directors shall have power to classify . . . the members of the Association into four classes to be designated as A, B, C, and D respectively [such classification to be made] according to the volume of the export trade in dried fruits of the several members and may fix the amount of dues payable by members according to such classification.

If it shall appear or be claimed that a member at any time has failed, or is failing to abide by or has violated or is violating any provisions of the agreement or of the By-laws, or of the requirements or provisions of any rules, regulations or policies established, prescribed or adopted by the Board of Directors, the Board of Directors after such notice and hearing as may be prescribed by the By-laws, may impose upon such member a penalty to be paid to the Association in a sum not less than $500.00 and not in any case (where such invoice value exceeds two thousand dollars) exceeding 25% of the invoice value of the goods involved in the transaction in respect of which such default or violation occurred, or may suspend such member from the privileges of membership in the Association for such period as the Board of Directors may fix, or may both impose such monetary penalty and so suspend such member, or may expel such member from the Association and declare his or its membership therein to be forfeited.

Another association, comprising two members who are manufacturers of an expensive type of machinery, was formed with equal representation on the Board of Managers, for the purpose of procuring foreign business and for aiding each other in the performance of contracts for the manufacture and sale of the products handled. Each company agreed, through its existing foreign sales agencies, to carry into effect such plans in pursuance of these purposes as the Board of Managers might adopt. All expenses of the Association are borne equally.

An association comprising provisions companies applies different plans to varying circumstances. "For some of our members we make the sales, arrange for the ocean shipment, make up the documents, collect them and pay the shipper the price specified at the time of sale. For some members we consign, handling the documents and shipments for which we receive account sales; for other members we sell only, having nothing to do with the documents, finances, or shipment. There is no fixed charge for our services, the expenses being pro-rated monthly on a tonnage basis."[12]

A singular instance in which two distinct Webb-Pomerene Associations, handling closely related products, have agreed in turn to coöperate in the export field, is found in the case of two fertilizer associations. One handles a high grade and the other a standard grade of product and while the membership of each is somewhat different, both are under the same management and operate as one organization. The total expenses are apportioned between the two associations on the basis of the tons shipped by each. Neither concern is incorporated, but each member has deposited $25,000 which is subject to forfeiture in whole or in part for any violation of the rules and regulations. The association is given exclusive control over the export sales. Orders are allocated among the members on the basis of predetermined percentages. Contracts are then drawn between the foreign customers and the selling member who fulfills the contract the same as though the sale had been made through a broker. Minimum export prices, terms of contract and other matters are fixed from time to time by a council, consisting of one representative of each member.

Two additional methods of operation, described briefly by

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[12] Statement received from a provisions export association, July 30, 1928.

Dr. William Notz, may be noted.[13] One association was formed out of a combination of ten mills. Instead of itself establishing agencies or branches abroad, the association joined with another mill that possessed a well-organized export department. This mill, in turn, was granted the sole export sales agency. In another case, an "export committee" has been formed by the members of an association, and it endeavors to sell all goods which are offered to it for export at the best prices obtainable, with no discrimination and no preference.

Shortcomings of the Act.—As may be observed from the preceding discussion, the Webb-Pomerene Act has failed to accomplish all that was expected of it. One important reason lies in the very nature of coöperation itself. Although coöperation is well adapted to the needs of industries handling raw and bulky articles, it generally is difficult to obtain, in the case of branded or trade-marked manufactures. Certain additional shortcomings, however, are traceable to restrictions imposed by the law which may be remedied by legislative action. It is generally felt that the elimination of all of our possessions as markets for the merchandise shipped by Webb associations, is an unfortunate limitation. Porto Rico, the Philippines, and other noncontiguous possessions are from every practical angle distinctly foreign markets. Undoubtedly, the greatest deficiency of the law, however, is the restriction of its provisions to the export trade. At first, the Federal Trade Commission's interpretation of the expression "export trade" was so narrow as to cause uncertainty. The later expansion of the first interpretation enabled prospective coöperative associations to engage in important activities formerly prohibited. But the exclusion of the import trade from the application of the law remains.

Attempts have been made to amend the Webb-Pomerene Act in order to permit coöperative importing. Impetus in this direction was gained by the activities of selling combinations in foreign countries which had forced up the price of several raw materials imported into the United States. The rubber situation was particularly aggravating. Efforts to procure the necessary legislative action in 1928 failed when the House rejected an amendment which would have permitted import combinations and the Senate did not vote upon the measure.

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[13] *The American Economic Review*, Vol. XIX, No. 1 (March, 1929), p. 14.

There is, however, at least one association which to some degree provides facilities for coöperation in importing. This particular organization is composed of a number of department stores and its functions are of the service type. Foreign offices are maintained in Great Britain, France, Germany, Belgium, and other European countries. Through these offices, visiting American department store buyers are assisted in making purchases, orders transmitted to them by letter or cable from member stores are filled when their own buyers are not in the foreign markets, and arrangements are established where the combined purchasing power of the association in particular lines can be used advantageously.

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CHAPTER XXIII

FOREIGN TRADING COMBINATIONS ABROAD

Coöperation among independent economic enterprises has been more common in foreign countries than in the United States.[1] The *Report on Coöperation in American Export Trade*, prepared by the Federal Trade Commission and referred to in the preceding chapter, indicated the extent to which, up to the War, foreigners were united for concerted action in many phases of commercial activity; and it will be recalled that this condition provided the mainspring for the passage of the Webb-Pomerene Act. The post-War development of the combination movement has continued from the point at which the War interrupted it. Furthermore, circumstances have altered the conditions affecting many industries and many countries. The impoverishment of many of the countries of Europe, particularly the Central Powers, together with the increasing importance of non-European countries of production, notably the United States, created the necessity on the part of European industrialists of adopting measures that would help them overcome the new difficulties. Efforts were exerted to place production and distribution on as efficient a basis as possible, or, to use a common term widely employed during the past few years, to "rationalize." Prominent among these efforts is the continued movement toward combination, first national and then international, first loose and then becoming more closely knit and further integrated.

Having observed in the preceding chapter the law in the United States as it relates to efforts to control competition, attention will first be directed to typical foreign laws under which the development of combination is permitted. The attitude of many foreign countries toward combinations in industrial and commercial enterprises differs radically from the attitude of the United States. While we have pursued the policy of free competition, foreign governments have seen fit to permit the elimination of competition in varying degrees. In Great Britain, the common law limits the freedom to combine by declaring null and void all contracts or agreements in restraint of trade. Such understandings, however, "are not actually illegal unless they involve an illegal act" . . . and "a contract which is technically in restraint of trade has long been regarded by the Courts as valid and enforceable when it involves a particular restraint which is not larger than the protection of the party with whom the contract was made reasonably requires."[2] Aside from legal obstacles, however, the traditional individualistic attitude of British concerns has militated against the development of combination. Following the War, various government bodies pointed out the necessity for coöperation in British industry in order to engage effectively in the forthcoming world competition. The Balfour Committee on Industry and Trade recommended in 1929 that British industry be "rationalized" through voluntary action and the committee noted a strong tendency toward efforts to regulate output, prices, and marketing. Official recognition of this necessity is seen in the recent sponsoring, by the Bank of England, of the Bankers Industrial Development Company, a company formed in the spring of 1930 for the purpose of aiding depressed British industry to reorganize, to coördinate its varied activities, and to operate more effectively.[3]

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[1] The discussion in this chapter will not include government restriction and price control, which are discussed in Chapter V, nor are consumer coöperatives included.

The attitude of continental European countries toward combination swings generally to the opposite extreme of that of the British. Germany, a leader in concentration movements, has not only failed to prohibit combinations and efforts to control competition but has, in many instances, encouraged and occasionally has actually participated officially in restrictive agreements. There are instances of compulsory combinations in Germany, as in the case of potash and of coal. The German Civil Code does prohibit competitive acts injurious and repugnant to good morals but the law generally looks with favor upon efforts aimed to achieve greater efficiency by means of coöperation. Furthermore, the psychology of German industrialists was decidedly favorable toward coöperation and the restriction of competition. In 1923, however, a far-reaching Cartel Decree was issued, it being aimed at the abuse of economic power on the part of cartels and combinations.[4] This regulation, still in force, created the Cartel Court and granted to the Minister of Public Economy supervisory powers over the formation and operation of cartels. All contracts and agreements regulating the production, distribution, and sale of commodities must be in writing and approved by the Minister; secret arrangements are not binding. The Cartel Court was established for the protection of the rights of the public and of the members of cartels. "It is recognized that the activity of cartels, where sound and responsible, is beneficial."[5] Under some circumstances, the Court has permitted members to withdraw from cartels without giving notice, and in other instances it has held such action to be illegal. Efforts on the part of syndicates to compel outside companies to join and efforts to control the prices and conditions under which members of the syndicate should deliver products to outside concerns have been thwarted.[6] On the other hand, a German wire manufacturer was not permitted by the Cartel Court to abrogate his agreement by withdrawing from the syndicate because of controversy over his quota, the Court holding that the regulations of the syndicate must be observed.[7]

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[2] *Review of Legislation on Cartels and Trusts*, League of Nations, p. 8.
[3] *Commerce Reports*, May 19, 1930, p. 411.

Great Britain and Germany represent the two extremes of foreign government policy, both legal and practical. In other nations, in general, special legislation relating to cartels or trusts does not exist, only agreements tending to raise prices within the country or to be detrimental to public interest being illegal. The British attitude is usually followed in other countries of the Empire. Canada in 1923 enacted the Combines Investigation Act for the purpose of inquiring into the operation of alleged combines. Norway in 1926 passed stringent legislation dealing with combines while Italy and Japan encourage coöperation. By reducing the taxes applicable to business mergers, including those already in existence, Italy endeavors to promote combination; and the Japanese government has caused the compulsory organization of associations for the advancement of Japanese export trade.

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[4] *Ibid.*, Jan. 7, 1924.
[5] *Review of Legislation on Cartels and Trusts*, League of Nations, p. 23.
[6] *Annual Report*, Federal Trade Commission, 1927, p. 26.
[7] *Ibid.*, 1928, p. 103.

Types of Combination.—Foreign trading combinations in foreign countries, generally unhampered by legal or practical obstructions, have taken various forms of expression. First to be considered is the cartel, a term generally associated with German industrial organization but possessing a much wider application. A cartel aims to control the market; it tends to create a monopoly although it rarely succeeds in doing so. It consists of a voluntary association of independent enterprises, primarily for the purpose of jointly controlling output. The threat of overproduction in basic, mass production industries is the foundation of most cartels. From this initial purpose, the cartel has expanded into other fields of activity, so that a classification of cartels includes not only (1) those organized to limit output, which are now rare; but also (2) those established to maintain prices; or (3) to agree upon sales territories, foreign as well as national; or (4) to agree upon uniform discounts, credits and other collateral phases of merchandising; or (5) to undertake the centralized selling of the output of the members. There is also considerable overlapping in this classification.

Cartels are largely to be found in Germany, the land of their origin, although they are also established in other countries. Indeed, from the discussion in the preceding chapter, it may be seen that Webb-Pomerene Associations in the United States are cartels in many respects. Although many of the basic industries in Germany are "riddled" with cartels, and the device is employed in other countries, it is in their international ramifications that we are especially interested and this subject will be discussed at a later point.

The French phenomenon of commercial combination is the "comptoir" which, by definition, is an incorporated trading company. The French method of approaching the problem of controlling competition consists primarily of sales agreements and centralized selling agencies for the products of the members of the arrangement. The well-known Comptoir Metallurgique de Longwy, now out of existence, was established in 1876 for the purpose of advertising Lorraine pig iron. Occasionally, comptoirs found it necessary to restrict production in order to attain their ends, but essentially they confine their activities to merchandising—sales quotas, price agreements, territorial divisions, and similar phases. In these respects, they coincide with many types of German cartels although, as compared with them, they "have shown a certain moderation and restraint."[8] The French temperament was not so amenable to the disciplinary measures that are essential for the successful operation of a cartel.

In England, powerful combinations have been formed in certain lines, in spite of the traditional individualism of the people, and they are essentially of the closed type of merger or fusion as commonly practiced in the United States. In Japan, combinations exist largely along family lines, the undertakings of a firm like Mitsui and Company, for example, being exceptionally ramified and often unrelated.

The principal enterprises of the family are the Mitsui Bank, one of the seven premier banks in the country, the Mitsui Trust Company, the Mitsui Bussan Kabushiki Kaisha known throughout the world as the greatest Japanese trading company, the Mitsui Mining Company, and the Toshin Warehousing Company. Further, the family is closely connected with the business of the Shibaura Engineering Works, the Hokkaido Colliery and Steamship Company, the Japan Steel Works, the Oji Paper Mills, and the Toyo Cotton Company and has large shares in the Taisho Fire Insurance Company, the Electro-Chemical Industry Company, the Tropical Products Company, the Kanegafuchi Cotton Spinning Mills, the Taiwan Sugar Manufacturing Company, the Gunze Filature, the Dai Nippon Artificial Fertilizer Company, the Taiwan Electric Power Company, the Toyo Steel Works, the To-a Mining Company, the Iwaki Industrial Company, the Bank of Japan, etc. The center of operations of these ramified and numerous enterprises is the Mitsui Gomei Kaisha which controls the great Mitsui interests.[9]

The post-War tendency has been toward greater international combination. Many conditions have given rise to this situation, some of which are probably temporary in their effect. Furthermore, it should be noted that many international agreements existed before the War. In 1897, Dr. Robert Liefmann, the German cartel authority, enumerated 40 different international agreements, and at the outbreak of the War there were 114 recognized international cartels.[10] Of these, 26 were in coal, iron and steel, and metals; 19 in chemicals and allied industries, 18 in transportation, 15 in textiles, 8 in stoneware and porcelain, 7 in pulp and paper, 6 in stones and earth, 5 in electrical lines, and 10 in miscellaneous trades. The War disrupted these agreements, however, and a new start had to be made. For this reason, as well as the new conditions that have arisen, the international cartel and combination movement in its present form is considered as a post-War development.

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[8] *Cartels and Trusts and Their Development*, League of Nations, p. 16.

[9] *Commercial Japan*, Leading Business Interests Number, Tokyo, p. 212.

[10] Robert Liefmann, "Cartels, Combines and Trusts," p. 19; see also *Journal of Political Economy*, October, 1920.

Overproduction, actual or potential, has been an underlying cause of many international industrial agreements. With the continued improvement in processes of manufacture, the existence of vast productive power as a heritage of the War, and the decline in purchasing power in many European countries, due to their post-War impoverishment, a surplus of production was inevitable. Furthermore, the new alignment of national boundaries broke up the economic solidarity and relationships that had long existed. International financial movements also gave impetus to the creation of international industrial understandings as capital came into the hands of the largest concerns and brought them into keener competition with the industrialists of other nations. Demands of many countries for foreign merchandise were reduced because of the nationalistic spirit and higher protective tariff that came as an aftermath of the War, and competition was thereby further augmented. The exchange difficulties, a temporary condition, added to the impetus toward widespread combination in order to combat the anti-dumping legislation enacted in many stable currency countries. New industries have arisen and altogether the stage has been set for a development such as is occurring, largely because Germany, with the longest experience in effective cartelization, was among the countries most affected by these conditions.

At the present time, international cartels and international industrial agreements are to be found in many lines. Some of these understandings are a continuation of agreements entered into before the War. In chemical lines cartels exist for carbide, chestnut extract, dyestuffs, fixed nitrogen, Glauber salt, glue, iodine, matches, potash, quinine, sulphuric acid, and superphosphate. In iron and steel, there are cartels in enamel ware, machine wire, pig iron, rails, rolled wire, steel, tin plate, tubes, and woven wire. In metals and minerals, cartels are to be found in aluminum, bismuth, cement, copper, ferromanganese, ferrosilicon, magnesite, mercury, porcelain ware, titanium, uranium, and white lead. Cartels have also been formed for electric bulbs, glass bottles, plate glass, lumber, leather, cellulose, packing paper, flax, rayon, wool, and wood screws. International agreements are to be found in coal, lead, tin, diamonds, oil, nitrates, coke, marble, asbestos, linoleum, ball bearings and other lines. Huge capital expansion in some industries has led to international mergers and the acquisition of control over foreign companies, and many ''gentlemen's'' agreements have been entered into.

Since the existence of national combinations is most favorable to the development of international arrangements, a survey of typical international cartels and agreements will serve also to illustrate the types of combination that have been established in the constituent countries.

The Continental Steel Entente, which has attracted much attention in recent years, was formed in the fall of 1926 between steel producers in Belgium, France, Germany, Luxemburg, and the Saar, while the producers of Czechoslovakia, Austria, and Hungary entered the arrangement a few months later and Yugoslavia subsequently joined the entente. The steel industry in the constituent countries had been closely concentrated for many years prior to the War. In Germany the Stahlwerksverband had brought together the principal steel producers and although this organization had passed out of existence, the industry was closely cartelized. The Comité des Forges was established in France in 1864 and is essentially a trade association occupying an influential position. The French comptoirs (Comptoir de Longwy and Comptoir Siderurgique) were dissolved in 1921 and 1922, respectively, but the industry had learned to coöperate.

An underlying cause for the formation of the entente was the separation from Germany of Luxemburg and the Saar with their important steel production. German steel manufacturers were forced into some kind of accord in order to reëstablish something of the former economic alignment. The agreement was entered into for an initial period of four-and-one-half years from October 1, 1926, and has been provisionally extended to the end of 1930. Its essential purpose is to control production, although experience has shown that effective control could not be exercised without price agreement and efforts in this direction have been made. Moreover, the German contention that selling syndicates be established has been adopted, and, at the meeting of the entente on January 24, 1930, it was decided to begin the operation of offices for the distribution of orders in four centers. This plan was to be followed for a period of six months from February 1 and ultimately a central and permanent export organization was to be established. The continuance of the agreement to the end of 1930 was provisional upon the establishment of international syndicates by July 31, 1930.

The entente controls production by assigning to each of the constituent countries a quota based upon its proportion of the combined tonnage of the producers included in the arrangement. The assumed basis was originally 27,587,000 metric tons but this was subsequently raised at various intervals until in the summer of 1929 it reached 32,295,000 tons. The increases were due partly to the addition of the central European countries to the entente, but they are traceable largely to continuous overproduction on the part of Germany. In the fall of 1929 production was decreased by 10 per cent because no other effective means of stopping the successive increases had availed. On the basis of this tonnage, each country was assigned a definite percentage quota, Germany being allotted 43.50 per cent, France 31.19 per cent, Belgium 11.56 per cent, Luxemburg 8.55 per cent, and the Saar 5.20 per cent. The allotments have not been strictly adhered to and they have been changed from time to time.

An equalization fund is established under the entente, each member contributing one dollar per ton of raw steel produced. For each ton produced in excess of the percentage allotment, the overproducing country is to pay four dollars, while the members that do not come up to their quota of production are allowed two dollars for each ton below the quota. The tonnage subject to indemnity is limited to 10 per cent of the quarterly allotment and for successive deficits it is reduced. It was unofficially announced in the fall of 1929 that the penalties for overproduction were to be reduced 25 per cent. The entente is governed by a general assembly and is administered by a directing committee consisting of one representative each of Germany, Belgium, France, and Luxemburg. This committee not only takes measures to insure the execution of the entente, and directs and cares for the funds collected and paid under the agreement, but it also fixes the tonnage of production quarterly, in accordance with the agreed quotas. Periodical reports of production are filed by each member and provision is made for withdrawal under certain circumstances.

Another important international cartel which not only apportions production among the members but also includes a territorial division is the International Rail Makers' Association (IRMA). This organization is generally recognized as the first important international cartel, the initial agreement having become effective in 1883 for a period of three years. A second agreement was entered into in 1904 for a further period of three years. The United States and France became parties to this second understanding, in addition to Germany, Great Britain, and Belgium, the original founders. Under this agreement the markets of North and South America were reserved for American producers, who, in turn, were to remain out of other world markets. In 1912 the association was revived for another three-year period but it was disrupted by the War. After considerable discussion, the agreement was renewed late in 1926, and in 1929 it was extended for six years to March 31, 1935. The percentage quotas assigned to the member countries are forty-three for the United Kingdom, nineteen and one-half for Germany, nineteen and one-half for France, eleven for Belgium, and seven for Luxemburg. It is understood that the American share is included in the British quota.[11] The penalties for overproduction on the part of any member are now ten shillings per ton for the first 37,500 tons and one pound sterling per ton in excess of that figure. Each country is to respect the national markets of the other; preferential treatment is granted each country in its own colonial areas and the balance of the world markets are free to all of the members. The general dissatisfaction of other European producers toward the privileged position of British manufacturers in the extensive British colonial markets was somewhat ameliorated by the provision that after the British have fulfilled their own quota, the other members may endeavor to sell in the colonies.

An extensive cartel that is intended primarily for the purpose of controlling competition and fixing prices without restricting production or establishing quotas, is the International Aluminum Syndicate. Although an aluminum cartel was first inaugurated in 1901, the present agreement was entered into in 1926 and in 1928 was extended for three years. The French, British, German, and Swiss companies that have formed this cartel control less than one-half of the annual world production of raw aluminum. As is true of most international industrial agreements, the aluminum agreement was facilitated by the close integration of the industry in each of the constituent countries. In Great Britain, two companies dominate the aluminum production, although some degree of coöperation exists between them through the joint control of a refining concern, and the larger of these is a member of the syndicate. In Germany, the industry is concentrated in a few hands and the Government has considerable financial interest in the business. In France, the Aluminum Française is a combine of French producers, indicating a high degree of integration before the international agreement was drawn up. Several of the Norwegian, Austrian, and Italian companies are affiliated with French, German, British, or Swiss companies and this brings them indirectly into the compact.

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[11] *Report on International Industrial Ententes,* International Chamber of Commerce, p. 42.

> The cartel is to serve a three-fold purpose: (1) Interchange of information; (2) promotion of sales; (3) stabilization of prices and a reduction in cost of production. The interchange of information, it is stated, is to relate chiefly to technical processes and patents. The principal patent involved is that covering the Haglund process. The development of new sales possibilities has to do largely with the seeking out of new commercial and industrial uses for aluminum, both in the form of the pure metal and in connection with various alloys. The third purpose for which the cartel has been formed includes the elimination of competition and the fixing of prices. A further aim of the cartel is to comprise closer cooperation with the branches of the industry manufacturing semifinished and finished products. No special provisions have been made for the apportionment of production or of sales, but an understanding has been reached whereby the industry of each country is to continue undisturbed in its former markets. In general, the French producers are to supply the French domestic market, and likewise the English and German producers their respective home sales territory. As for the rest, in case of differences each case, as it rises, is to be dealt with on its merits.[12]

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[12] *Representative International Cartels, Combines and Trusts*, Bureau of Foreign and Domestic Commerce, Trade Promotion Series 81, pp. 38-39.

Several international cartels and agreements are based upon patent holdings. The Electric Bulb Cartel was originally formed in 1903 and its present organization was established in 1925. It embraces the principal producers of incandescent lamps in Germany, France, Netherlands, Great Britain, Italy, Japan, and the Scandinavian countries. Prominent among its special features is the exchange of manufacturing patents and secrets. "Thus, without any uniform prices or the allotment of quotas, the syndicate has already been able to obtain a very satisfactory standardization of manufacturing methods and of models offered for sale."[13]

The Bottle Manufacturers' Cartel, comprising the producers of England, Germany, Czechoslovakia, Hungary, Austria, Netherlands, Sweden, Norway, and Denmark, was reëstablished in 1927 and is maintained fundamentally for the purpose of utilizing the Libby-Owens patents for the manufacture of glass bottles. Another agreement involving patent rights and coming nearer to the American industry by reason of international affiliation, is the International Rayon Cartel. Many of the basic patents in the production of rayon are held by European concerns and some of the largest American producers are either subsidiaries of European manufacturers or they are affiliated with them by stock control or by the interchange of patents. The extensive national control in Germany and in France facilitated their association with the producers of other countries in an international rayon agreement.

A joint sales organization, the Comptoir des Textiles Artificiels, is maintained in France, and it has also arranged for the interchange of patents among its members. In Germany, a domestic cartel was formed in 1926, comprising the Glanzstoff interests with their foreign affiliations, and the I. G. Farben-Industrie, the great German dye combine. Together these concerns control 85 per cent of the German production. In 1927 an agreement was entered into by the leading viscose rayon producers in Great Britain, Germany, and Italy and subsequently Belgium and the Netherlands. These companies control about 80 per cent of the world production of rayon. Under the agreement, which now includes acetate rayon also, each company is guaranteed its own domestic market, underselling in foreign markets is eliminated, each member is to produce the articles in which it possesses the greatest efficiency and, as later agreed, prices are established.

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[13] *Report on International Industrial Ententes*, International Chamber of Commerce, p. 36.

International exchange of patents is also understood to exist in an agreement between the General Electric Company and the German A. E. G. These concerns before the War had agreed not only upon technical matters but had respected the markets of the other. They have acted in concert in such matters as obtaining concessions from foreign governments, laboratory arrangements, and other commercial and technical phases of the electric field.[14] In the summer of 1929, the American company acquired 16 per cent of the stock of the A. E. G. and placed several Americans on the board of directors, thus providing a basis for a closer working union.[15]

Most of the international cartels and agreements relate to price control and a few of them embrace territorial apportionment. Rarely is it possible effectively to control production as, in the case of an international understanding, this presupposes a practical world monopoly. Indeed, the existence of outside competition, sometimes as powerful as the combined position of the members of the cartel, is a constant threat to the success of the undertaking. The Aluminum Syndicate, for example, faces the more powerful American and Canadian interests and its efforts to control output and fix prices must consider this practical situation. In the case of the copper cartel, in which American participation is provided through Copper Exporters, Inc., a Webb-Pomerene association, practically 90 per cent of the world production of copper is represented in the cartel[16] and the steady rise in the price of copper throughout 1928 and 1929 is partly attributed to this control.[17]

Shortcomings of Loose Forms of Combination.—As a means of restraining competition, the cartel is subject to serious limitations. The independent existence of all of the members gives rise to independent expressions of opinion. With reference to Germany, it has been said that ". . . all these syndicates are riddled with internal dissensions and are constantly threatened with disintegration.''[18] When extended to the international field, this condition is accentuated. The Continental Steel Entente, for example, has had to contend with the continuous overproduction of the German manufacturers. When quotas are established, as in the steel agreement, it may be more profitable to produce in excess of the quota allotment because the fines thereby incurred may not be as burdensome as the losses sustained through a curtailment of production. A second factor is the urge on the part of each member to turn out as large a production as possible during one period in order to sustain the contention for a larger quota during a subsequent period. This difficulty is inherent in pooling arrangements. Unless effective disciplinary measures are incorporated in the understanding, any member may at any time violate the agreement and precipitate open competition. The Phosphorous Pig Iron Cartel, for example, embracing French, Belgian, and Luxemburg producers was dissolved on January 1, 1930, after a continuous existence of less than two years. The reason for the dissolution was the actions of one of the members who violated the agreement and who could not be brought to terms. Constant pressure for efficient and economical operation, however, caused the re-formation of the cartel in the spring of 1930.

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[14] *Ibid.*, p. 35.

[15] *New York Times*, Aug. 6, 1929.

[16] *International Cartel Movement*, Bureau of Foreign and Domestic Commerce, p. 56.

[17] *Commerce Reports*, March 3, 1930, p. 557.

The International Zinc Cartel was forced to disband late in 1929 due to ''overproduction by the new plants in Norway, France, and Silesia and the announced intention of one of the American producers to change his Mexican shipments to Europe from 70,000 tons of concentrate to 30,000 tons of refined metal annually. . . .''[19]

The difficulties of international agreements are further intensified by the differences in economic conditions prevailing in the constituent countries. These difficulties not only give rise to protracted negotiations leading to the formation of the agreement but also to continuous dissension throughout the life of the understanding, often causing dissolution. Distance alone is a complicating factor in international agreements and governmental policies sometimes present disturbing problems. These policies relate to protective tariff and efforts to encourage the establishment of national industries untrammeled by foreign affiliation or control. The participation of British interests in several international cartels and agreements has been hindered by the failure of the British government to indicate its sanction, and the absence of American manufacturers from direct participation in some cartels is also traceable to the uncertainty caused by the anti-trust laws.

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[18] *Cartels and Combines*, League of Nations, p. 13.

[19] *Commerce Reports*, March 3, 1930, p. 556.

The International Economic Conference, held in 1927 at Geneva, devoted considerable attention to the problem of international cartels and agreements of various kinds. The Conference adopted resolutions with respect to cartels and in part declared that the "field of operation for agreements, both national and international, is usually limited to branches of production which are already centralized and to products supplied in bulk or in recognized grades. . . ." The belief was expressed by the Conference that in some branches agreements among producers may permit a reduction of costs through the more efficient organization and utilization of productive machinery and through the better development and more rational grouping of undertakings. Further, that they "act as a check on uneconomic competition and reduce the evils resulting from fluctuations in industrial activity." The International Chamber of Commerce also expressed the belief that workers are helped by national and international agreements through the more even employment they provide and that the public is benefited by reason of the lower prices resulting from economy in operation and distribution.

The Tendency toward Closer Combination.—The difficulties inherent in loose forms of understanding have led to the increased development of closer forms of combination in international commerce, including the German "konzern," communities of interest, and complete fusions or mergers. The konzern in Germany has attracted wide attention in recent years as indicating a trend toward a closer form of amalgamation than is permitted by the cartel. Konzerns existing in steel, coal, chemicals, and potash in Germany provide for the centralized control of "production, management, and commercial and financial policies"[20] of the independent constituent companies. Often stock control is employed as a means of acquiring the management of other companies and a board of directors with representatives of each of the constituent companies generally administers the arrangement. Communities of interest likewise permit the independent existence of the respective concerns but make possible substantial uniformity in policy. The highest development of the tendency toward combination is the fusion or trust, a phenomenon that is especially characteristic of the United States and is becoming increasingly important in Great Britain and other industrial countries. The fusion, or merger, is not, of necessity, a monopoly but it is a combination in which the merged companies usually lose their independent identity, the largest and most powerful member often absorbing them. The experience with cartels and other loose forms of combination lends impetus to the movement toward these more direct types of concentration. For purposes of illustration, two well-known international combines will be briefly discussed.

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[20] *The International Cartel Movement*, Bureau of Foreign and Domestic Commerce, p. 17.

An outstanding example of international control approximating a world monopoly is the International Match Trust. The dominating factor in this industry is in the hands of a Swedish company which controls about 150 match factories in 35 different countries and also holds "monopoly concessions for the production or sale of matches in a number of countries in return for financial loans." [21] The parent company has grown through a series of horizontal absorptions and, as a result of the shortage of raw materials during the War, vertical expansion transpired until the Swedish industry now is practically independent of foreign sources of supply. Moreover, match-making machinery is extensively produced and the company occupies a near monopoly in this respect. Concessions for the exclusive sale of matches have been obtained in Poland, Peru, Greece, Portugal, Ecuador, Hungary, and Yugoslavia, the arrangement in the case of Portugal being based upon the control by the Swedish company of a Portuguese concern that possesses the monopoly. The International Match Trust also has the exclusive right to supply the French match monopoly with machinery, match boxes, and match sticks and it possesses affiliations in practically every other European country as well as in

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[21] *Representative International Cartels, Combines and Trusts*, Bureau of Foreign and Domestic Commerce, p. 25.

Japan, Mexico, Chile, Colombia, Palestine, the Philippines, India, China, Turkey, and the United States.

Another widely known instance of international combination amounting to a practical monopoly is the Franco-German Potash Agreement. Prior to the War, Germany possessed a singular position in this field and national cartels were organized as early as 1876. In 1910 and again in 1919, the German Government brought about a compulsory potash syndicate. With the separation of Alsace from Germany as a result of the War, France became a factor in the production of potash. It is significant that both the French and the German Governments are directly interested in the potash industry and the agreement of 1924 between the German potash cartel and the sales organization for the Alsace producers evoked widespread political interest. This understanding related to the division of the American market and the establishment of prices to be charged in the United States. In 1925 a division of world markets was undertaken, domestic and colonial markets being reserved to the respective parties. The ten-year agreement of 1926 recognized this division on the basis of 70 per cent for Germany and 30 per cent for France until a fixed production is reached and it established joint sales and advertising organizations for the purpose of encouraging the increased use of potash.

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CHAPTER XXIV

PRINCIPLES AND CONDITIONS GOVERNING SELECTION OF EXPORT TRADE POLICIES

The success of an exporting concern will be influenced by the skill with which it selects its foreign markets, by subsequent conditions affecting production costs and prices, by changing considerations relating to the quality of its wares, by current business, financial, and political conditions, by the extent of native and foreign competition, by tariff and other legislative enactments, by shipping services and costs, and by the effectiveness of its management. Most of the market survey factors considered in Chapter XXXII, indeed, are subject to change after the original choice of markets has been made. Its success will naturally depend in part upon keeping itself well informed currently. Much will depend on the adoption of effective distribution, and trade promotion methods and policies in the first instance and on their subsequent adaptation to changing requirements.

Decision as to which of the several available methods and policies will be adopted in particular instances is an important executive function confronting every exporter. Business judgment usually enters into the decision, because the conditions influencing it do not always point definitely to a particular method or policy and to the exclusion of all others. The choice of methods and policies will, however, be influenced by varying conditions that may conveniently be subdivided as follows: (1) the characteristics of the commodity, (2) the characteristics of the market, and (3) the characteristics of particular exporting concerns and industries.

CHARACTERISTICS OF THE COMMODITY

The indirect export trade channels through which many of the great staples of commerce are marketed are in some instances influenced by the fact that they are produced by large numbers of unorganized producers and by other characteristics of the industries from which they spring, but the inherent characteristics of these commodities are also in part responsible. Staple agricultural products, such as grain and cotton, which are nonperishable and readily graded and classified or standardized, are well adapted to sale on the basis of grade or sample, to storage on a large scale in public and private elevators or warehouses, to sale on organized exchanges, to the use of the cable in quoting prices and in transmitting orders, and to the utilization of indirect trade channels. They are sold abroad at world prices, largely determined on the organized markets of the principal importing countries in accordance with international conditions of supply and demand and their sale is not dependent upon direct personal salesmanship.

Some manufactures or semimanufactures, likewise, are more or less staple in character, but as other conditions also are important in determining export methods and policies, and may, in particular instances, dominate the decision made by the exporter, it does not follow that all of them will be distributed through indirect trade channels. There can be no doubt, however, but what the staple characteristics of products such as lumber, cotton gray goods, and flour facilitate somewhat the indirect marketing methods pursued by many producers in these industries. The relative ease with which certain manufacturers lend themselves to standardization also facilitates the adoption and maintenance of coöperative exporting methods.[1]

The inherent nature of many manufactured products, particularly of complicated machinery such as locomotives, automobiles, farm machinery, mining machinery, etc., points toward direct exporting methods. Expert knowledge of the commodity, demonstrations, and personal salesmanship may be necessary or highly desirable, and the exporter frequently decides that the organization through which this can best be accomplished is one that he himself provides. Less complicated wares are better suited to indirect distribution through American export middlemen, and the extent to which foreign agents are utilized may also be influenced by the characteristics of the exporter's commodities. Market conditions, or the characteristics and policies of the exporting firm, may cause it to export through American middlemen or foreign agents, but it will at least give consideration to the employment of export salesmen or the establishment of branch houses for the sale of complicated mechanical products.

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[1] *See* Chapter XXII.

The inherent nature of machinery and mechanical products, moreover, may make it essential that adequate provision be made for replacement parts, and in many instances for efficient local service stations. The sale of products, such as electrical machinery, may depend upon installation by the exporter. The sale of farm implements and other products, the demand for which is seasonal, may make it desirable to carry large stocks from which prompt delivery can be made, even though this policy may tie up funds in the commodities and in warehousing facilities or arrangements. The successful promotion of a market for farm implements or automobiles may depend very directly upon their adaptation to local conditions and preferences or requirements. These commodity characteristics have frequently led to direct local representation by salesmen, mechanical experts, or branch houses. If other conditions warrant, there is usually a strong tendency in the direction of export branch houses for the promotion and sale of such commodities.

Commodities differ also as to their financial characteristics. The credit requirements in connection with the resale to farmers of the more expensive types of farm machinery is a marketing problem. As a single grain binder, for example, represents a substantial investment, the grower's ability to pay may depend upon the harvesting and sale of his crop. Long agricultural credits may be essential to the successful development of a foreign market, and they may influence the credit and sales arrangements of the exporter. This need for long-term credits is an additional inducement to the establishment of American branch houses abroad. The heavy investment represented by many other products, the sale of which is not so largely seasonal, also affects their credit terms and methods of distribution. The heavy machinery trades in which a single machine may represent an investment of thousands of dollars sometimes find this commodity characteristic an obstacle to the carrying of stocks by American middlemen or foreign agents.

The perishable character of a commodity may affect not only its shipping and storage facilities and methods but its channels of distribution and marketing methods. Speed and special care in handling and storage are especially desirable and producers whose sales are sufficiently large to warrant the expense may, therefore, prefer to maintain their own direct marketing organizations. In the local distribution of perishable products many trade channels may be welcomed as a means of prompt merchandising, but perishability provides an incentive for direct representation abroad. The large meat packers of the United States have made satisfactory arrangements with foreign agents in many foreign markets; in others they employ export salesmen, and there are also instances of packing house branches. The volume of their sales makes direct exporting readily feasible, and the perishable nature of their wares causes them to pay especial attention to rapid delivery and to careful packing and handling. The perishable character of their products is largely responsible also for their cash or short-term credit policy.

It is hardly necessary to repeat that export advertising and promotion methods and the aggregate amount of the exporter's advertising appropriation is influenced by the nature of his wares. There is special need for advertising products that are eventually to be resold abroad to the general consuming public. Salesmanship designed to reach the wholesale or retail dealer is not sufficient. The retail market needs to be developed and the exporter frequently sets aside advertising funds for this purpose even when he is represented by a foreign agent. The methods of advertising consumers' goods, moreover, are selected with a view to reaching the thousands of individuals comprising the general consuming public. Exporters of industrial machinery, railroad equipment, mining machinery, and the many other products that are of interest to only a limited number of foreign manufacturing industries, transportation companies, mining concerns, public utilities, or other business enterprises, can depend more largely on personal salesmanship. Their general advertising activities are less extensive and are usually confined to the preparation and distribution of descriptive letters, circulars, booklets, or catalogues, advertising in trade journals and business publications, and other methods particularly effective in developing a specialized market.

2 CHARACTERISTICS OF THE MARKET

Although commodity characteristics may cause the exporter to decide in favor of particular exporting methods or policies, his decision, with reference to different foreign markets, may vary, and if his foreign trade is distributed over a wide range of markets he virtually always pursues a variety of methods. One of the reasons for this is that market characteristics are also an important consideration. Some of these market characteristics are specific in that they affect only particular commodities, while others are so general in scope that all or a wide variety of wares exported to particular markets are influenced by them.

Among the former, special mention should be made of the amount of competition encountered in the sale of a particular product in different parts of the world. Increased competition has frequently been an incentive to more direct exporting methods. American machine tools were for some years distributed by American producers in foreign industrial countries very largely through foreign agents, but later when the Western European countries offered keen competition in the production and sale of some types of machine tools, branch houses or affiliated companies were established in a number of foreign markets. The partial change from foreign agents to branch houses in the European markets for phonographs and typewriters is also partly attributable to increased European competition. The exportation of ready-mixed paints to Mexican, Central American, West Indian and other Caribbean markets, and to Canada, was from the very beginning entrusted to export salesmen because competition was fully anticipated. It was necessary to combat the customary practice of purchasing white lead and other paint ingredients. The establishment of retail shoe stores abroad and the sale of American shoes direct to foreign retailers by American salesmen in some markets is also due at least in part to keen competition. In markets that are less competitive American shoes are variously exported through American commission houses, export brokers, and foreign agents, or direct to foreign wholesale importers.

A second market characteristic affecting particular commodities may be the well-established position of certain American or foreign middlemen. A particular American export house may be so firmly intrenched in a foreign market through connections with importers, control of shipping and dock facilities, etc., as seriously to deter producers of general merchandise and many kinds of manufactured products from making more direct sales arrangements in particular markets. In other markets an exporter selling through an exclusive foreign agent may find that the agent is so firmly established as to handicap more direct distribution through export salesmen or branch houses. He may, indeed, conclude in some instances that the export house or the foreign agent so situated is exceptionally efficient and reliable.

The purchasing organization and policy of the foreign importer, too, may in particular instances affect trade channels. Some foreign importing houses, as was stated in Chapter XVI, send buyers to the United States or establish permanent American middlemen as purchasing agents or representatives. Foreign consumers sometimes make purchases directly at the plant of an American manufacturer. Foreign buyers of industrial machinery, for example, not infrequently make thorough inspections at American plants before making a purchase. At times the ownership and financial control of a foreign enterprise affects trade channels. In the exportation of mining machinery, for example, the local management does not always have complete purchasing authority when the mining property is owned by foreign capital. The exporter's salesmen may have direct contact with the mining companies' offices at London, New York, or elsewhere, as well as with their local managers in South Africa, Peru, Bolivia, Mexico, or other mining regions.

When an exporter attempts to sell products for use in business enterprises owned publicly, his sales organization may need to be modified so as to facilitate sales to foreign governments. In a foreign market where government ownership of railroads prevails, American exporters of locomotives, iron and steel, etc., not infrequently operate through a native importing or financial house, even though their own salesmen, technical representatives, or other company representatives are on the ground. The reason may be that the bank or importing house is influential with the government, or that its services are needed in financing the transaction. The foreign government may wish to sell bonds in order to raise construction and equipment funds. The exporter may, indeed, find it necessary to take part in making arrangements through American financial houses for the sale of foreign securities in the United States. If the credit terms requested are longer than the exporter is prepared to grant, he may be able to make satisfactory arrangements with a large native importing or financial house.

Credit considerations in particular markets may similarly affect the exporter's trade channels when exporting to private customers. American lumber is variously exported through American export agents and export merchants, joint or co-operative sales agencies, consignment to foreign brokers, and direct sales to foreign importers. Requests in European lumber markets for long-term credits, however, have frequently caused lumber exporters to utilize the so-called London factor as an additional European middleman. "He finances the business buying for cash against shipping documents, and in turn passing the consignments along to wholesale distributors at the principal importing points. The great lumber yards at Antwerp and Rotterdam, for example, are owned by Antwerp and Rotterdam merchants, respectively, but draw their supplies through the London factors."[2]

Foreign tariff obstacles and keen competition, it will be recalled, have caused American manufacturers in some instances to change their export policies in particular regions so far as to erect or purchase foreign production plants.[3]

Certain market characteristics to a greater or less degree influence the export methods and trade channels of a wide range of products sold in particular foreign countries. The adjacent location of Canada, for example, has undoubtedly influenced the methods and policies of many American exporters in that very important foreign market, making them similar or identical in many instances to those pursued in domestic commerce. The Chinese comprador system was for many years an accepted part of the trading arrangements of most American exporters doing business in China. Some exporters, however, have built up Chinese trade organizations of their own, or sell direct to Chinese firms, and the comprador as a local middleman is less indispensable than in the past.[4]

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[2] *Export Policies*, Business Training Corporation, p. 83.

[3] *See* Chapter XVII.

[4] *See* Chapter XV.

CHARACTERISTICS AND POLICIES OF PARTICULAR EXPORTERS OR PRODUCERS

It is obvious that neither commodity nor market characteristics account fully for the trade organization and methods of particular exporters. In a given industry the export policies pursued by different producers in a particular market may vary everywhere from the most indirect to the most direct, and in some industries certain characteristics common to most producers greatly influence the trade channels through which their surplus products are exported.

The indirect exportation of grain and cotton is encouraged by the commodity characteristics previously referred to, but is due primarily to the production of these crops by thousands of small, unorganized growers, who for the most part are dependent upon middlemen for the distribution of their grain or cotton in domestic as well as in foreign commerce. Coöperative marketing has progressed and it has been an aid to many grain and cotton growers, but both of these trades remain indirect. Grain is exported, not by growers' coöperative companies, but by the wholesale grain dealers of the great primary and seaboard grain markets and by specialized grain export firms and American branches of foreign importers who purchase grain in the central wholesale markets, mainly from the grain dealers who operate there. Cotton is exported mainly by cotton brokerage firms who, as in the case of central market grain dealers, are engaged in domestic commerce as well as in the export trade. The growers have produced a heavy export surplus of wheat and cotton without effective control over its marketing. The Federal Farm Board Act of 1929 contemplates that the growers of these and other farm products will in the future play a more direct rôle in the distribution of their crops. The financial aid, expert advice and guidance, public supervision and coöperative action provided for in the act may bring about important changes.[5]

Manufactures are produced by business men who are more apt to insist upon a voice in determining prices, and to control the distribution of their wares. But in a particular manufacturing industry different exporters may pursue quite different export methods and policies in the same foreign markets. The exporting manufacturer's trade organization and methods are frequently influenced by the volume of his sales or prospective sales in particular markets, by the volume of his export business as a whole and by his financial position. Total volume of export sales frequently has much to do with the type of export department maintained by a manufacturer, and with the extent to which he will depend upon American export middlemen. He may depend entirely upon middlemen so long as his foreign sales are small and his interest in the export trade has not been aroused, but subsequently organize an export department and establish direct connections in all of his principal foreign markets. Another firm in the same industry may, because of preference or smaller volume of sales, dispense with an export department and depend entirely upon export houses or other middlemen, or content itself with membership in a coöperative export association.

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[5] *See* Chapter V.

Volume of sales in particular foreign markets may influence very directly the methods of different exporters, or of a given exporter in different markets. Volume of sales in particular markets has a direct bearing upon the establishment of foreign branch houses, or the employment of export salesmen, and upon the expenditure of large sums in export advertising and general trade promotion. The financial position of different exporters may affect their readiness to take these steps in anticipation of heavy sales in particular markets, and also influence their ability or willingness to extend long-term export credits to their foreign customers, to invest directly in foreign business enterprises, or to undertake the sale of foreign securities as a means of trade promotion. The more direct methods of exporting involve additional expense, and their adoption depends largely upon volume of trade. Even the largest manufacturing corporations, exporting commodities well adapted to branch house selling, have not established branch houses in all of their foreign markets. In some of them they depend upon traveling export salesmen, in others upon foreign agents, and in those of least importance they are content to fill orders received from export middlemen.

The adoption of particular methods or policies by different exporters in a given industry depends also upon their knowledge and experience. Some of them may, as a result of market surveys and experience, have gained an extensive knowledge of foreign markets, export selling methods, shipping practices, foreign credit terms and methods of financing, export price quotations, and other practices differing from those customary in domestic commerce. Such concerns are in a position to decide intelligently as to the export methods and policies best adapted to their several foreign markets, and where desirable, to establish a foreign trade organization for the direct sale and distribution of their wares.

There have been instances of direct exporting by manufacturers during the earliest stages of their interest in foreign trade, but the more general practice has been a gradual development from one stage to another. Many first depended entirely upon export middlemen, the valuable services of whom were discussed in Chapter XIII. With increased knowledge of foreign markets and export trade methods, increased volume of foreign sales, or greater need for foreign orders, and perhaps because of more intense foreign competition, they later decided to trade directly in their more important foreign markets, and still later the number of such markets is increased. Their first direct foreign trade is usually conducted through foreign agents, a combination of commodity, market, and firm characteristics later inducing some of them to employ traveling salesmen or to establish their own branch houses in a growing number of foreign markets. There has, of course, been no uniform historical development on the part of all exporting manufacturers; not only do the commodity, market, and firm characteristics referred to vary, but the extent to which they are permitted to govern the methods and policies of particular firms depends upon the personal judgment and views of their executives.

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PART IV

FINANCIAL PRACTICES IN FOREIGN TRADE

CHAPTER XXV

INTERNATIONAL BANKING FACILITIES

One of the most important facilities for the conduct of foreign as well as domestic trade is banking service. As was true of all other activities of the American people, the native banks of the United States were, until the World War, engaged primarily in the development of the agricultural and industrial resources of the country. The United States was a borrowing nation, and it depended largely upon the banking facilities of other countries to conduct its foreign trade. Overseas business was transacted largely in sterling and the dollar was little known abroad.

At this period in the development of American foreign trade, private banking houses, not incorporated banks, largely performed the necessary foreign trade banking service. Incorporated banks were estopped from effectively engaging in international financial transactions by reason of the law that prevented them from accepting drafts arising from foreign commerce and from establishing branches abroad. Private banking houses were not subject to the restrictive measures applicable to incorporated banks and, therefore, engaged freely in the acceptance of bills of exchange, together with other functions of international banking.

With the removal, in 1913, of the legislative restrictions against the operation of incorporated banks in foreign business, the latter now perform functions quite parallel with those of the private banking houses. In the field of foreign investment, however, the private banker, in some instances, occupies a singular position of prestige. ". . . in this field the personal contact of the private banker with foreign governments and other foreign borrowers, and the confidence of the borrower growing out of the history, achievements and abilities of the private banker, are important elements. It is our feeling that the principal distinction between the private general international banker, and the incorporated institution doing an international business, lies in the form in which the businesses are constituted rather than in functions performed or the manner of operating.''[1]

Aside from this distinction, there is practically no functional differentiation to be drawn between private bankers and incorporated banks, both of which ''receive deposits; honor drafts against such deposits; issue commercial letters of credit, on a sight basis and on a time basis; issue travelers' letters of credit; buy and sell foreign exchange; handle collections, domestic and foreign; discount notes; make loans, secured or unsecured; in addition to . . . a general investment banking business.''[2]

Mention should also be made of the acceptance houses and dealers that act as brokers, buying and selling trade and bank acceptances arising in international commerce. Although comparatively few in number in the United States, these perform an important function.

With the rapidly growing immigrant business toward the end of the nineteenth century, the attention of banks was attracted to this phase of foreign banking, and with the increasing number of American tourists traveling abroad, and the expansion of American manufactured exports, more interest in foreign work was displayed by banks. National banks were restricted by law in such way as to exclude them from this business, and the laws of only a few states were favorable to the conduct of international banking by banks organized under their jurisdiction.

The real development in the American banking service came with the World War which broke out in Europe one year after Congress, in the Federal Reserve Act, had authorized national banks to establish foreign branches and member banks to discount acceptances. Essential legislation in this connection was provided in Section 13 of the Federal Reserve Act whereby Federal Reserve Banks are authorized to discount acceptances arising out of foreign trade, ''which have maturity at the time of discount of not more than three months' sight . . . and which are endorsed by at least one member bank.'' Member banks were authorized to accept drafts drawn upon them having not more than six months' sight to run.

As a result of this law, an American foreign trader may go to a bank (probably his own bank) now a member of the Federal

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[1] Letter from a leading banker, Aug. 4, 1927.

[2] *Ibid.*

Reserve system, and dispose of his bills of exchange. Without this market for drafts, it was difficult for the foreign trader to sell his documents. If he were so fortunate, he could dispose of them to foreign banks, or to the large private banking houses here; otherwise, as usually was the case, he waited for the maturity of the bill before he could receive any funds. This burden on his own financial resources militated strongly against the granting of credit in foreign trade and placed him at a decided disadvantage as compared with his European competitors who were adequately provided with markets for their bills of exchange.

Foreign Department of a Bank.—With the growth of foreign business, banks organized special foreign departments, the most highly organized being found in the large New York banks. For purposes of illustration the Foreign Department of the Equitable Trust Company of New York is briefly described.[3]

The Foreign Department's functions are to "finance imports and exports, issue drafts on all parts of the world, buy and sell gold, silver and bills of exchange and perform every other kind of international banking transaction." It is organized into divisions with functions as follows:

Paying Tellers.—Make all payments which our foreign correspondents order by cable or mail, and cash all drafts drawn by them.

Foreign Arrangements.—Handle inquiries through our correspondents all over the world. Provide our clients with all foreign credit and business information.

Import Letter of Credit.—Issue commercial letters of credit on all parts of the world for the importation of merchandise into the United States and all other countries.

Export Letter of Credit.—Handle export credits opened by foreign depositors for shipment of commodities from the United States.

Export Drafts.—Handle export drafts either clean or documentary for collection or discount covering shipments to all parts of the world.

Travelers' Letter of Credit.—Issue our E.T.C. Letters of Credit both in United States dollars and in Foreign currencies.

Cables.—Receive and transmit all telegrams, radiograms and cable messages, and attend to prompt and accurate coding and decoding of messages.

Receiving Tellers.—Receive all monies for credit of accounts in Foreign department and for payment of cables, wireless transfers, and foreign drafts sold.

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[3] *A Booklet Describing Equitable Service*, Equitable Trust Company of New York.

Trading.—Purchase and sell drafts and cable transfers in all parts of the world. Make contracts for purchase and sale of foreign exchange payable at future dates. Purchase sight and time documentary bills on foreign countries.

Exchange Sold.—Issue checks and drafts on all parts of the world, payable either in foreign currencies or United States dollars. Make all mail transfers of payments to be made in foreign countries.

Loans.—Make Loans on commodities stored in the United States for ultimate shipment abroad, generally against warehouse receipts. Also handle consignments sent abroad by domestic clients.

Translation.—Translate foreign languages into English and vice versa.

Acceptances and Discounts.—Accept drafts for customers' accounts when commodities are sent abroad on consignment.

Accept drafts for our foreign correspondents to create dollar exchange. Handle the purchase and sale of acceptances drawn on banks and institutions payable in the United States.

Securities.—Handle all securities sent to us by our foreign clients whether placed with us for safekeeping, sale, or as collateral.

An interior bank, although not located in the seaboard atmosphere of foreign trade, may also engage actively and effectively in foreign commerce and the clients of such a bank look to it for service and information comparable with those provided by the large seaboard banking institutions. Interior banks with (deposit) accounts in foreign banks are in an excellent position to engage in international banking but it is difficult for them to maintain as complete and diversified a foreign department as can be supported in a large seaboard institution. Nevertheless, by maintaining close contact with a large foreign trading bank, a sufficiently comprehensive foreign banking service may be provided for clients. Some interior banks have established exceptionally close contact at the seaboard by means of their own offices, connected with private wire, in New York.

Usually, the foreign department of an interior bank is called the Foreign Exchange Department and the functions performed are principally the purchase and sale of foreign exchange and drafts and the issuance of letters of credit. A travel service is commonly offered to work out itineraries and to sell travelers' checks; and in sections of the country where a large foreign-born population is located, facilities for making immigrant remittances are provided. At times a credit and collection service may also be offered but without a sufficiently large volume of foreign business and without affiliations with banking institutions in foreign countries, this and additional functions are generally unwarranted. Interior banks usually deal through seaboard institutions and even though they may possess no direct foreign affiliation of their own, they are in a position to render valuable personal service for their exporting and importing clients. Some few interior banks have specialized in this service with high degree of success.

Overseas Organization of American Banks.—A large seaboard bank, irrespective of its size, cannot carry on its foreign business without foreign connections. These arrangements are provided either by correspondent banks abroad or by establishing branches. In the case of correspondent banks, mutual agreements are entered into for the reciprocal exchange of all business it receives for its locality. This plan is analogous to the agency system of merchandising and is subject to many of the same comparative advantages and disadvantages. Familiarity with the conditions, clientele, language, and customs in the foreign country is important and suggests the employment of native banks as correspondents. These have their established business and may be fully equipped to conduct overseas trade, much of which is possibly with their own clients. Native correspondent banks are under no legal restrictions such as may be imposed upon foreign banks, *e.g.*, the privilege of discounting bills of exchange with central banks abroad, and they do not arouse the resentment which the establishment of a foreign branch might create, due to the competition it would bring. In some countries, however, native banks may be undesirable as correspondents and in that case it is necessary to select branches of banks of a third country or of the United States.

On the basis of legal and practical considerations a correspondent bank may be highly desirable, but there is not always the assurance that the correspondent will render satisfactory service. A foreign bank may, for example, be quite lenient in the handling of documents by permitting the inspection of merchandise prior to acceptance or payment of a draft, irrespective of instructions to the contrary; or by holding a draft until the arrival of the shipment, likewise irrespective of instructions. The foreign bank may not be impressed with the necessity of gathering all of the information available in connection with a refusal of acceptance or payment and in other respects, such as the issuance of credit reports, may fail to accord with the view of banking service as understood and practiced in the United States. Moreover, banks have been known to fail, taking with them all funds in their possession, including those collected for the account of foreign exporters. In instances such as these, the American bank is not considered responsible for the acts of its correspondents. A survey of draft protests, undertaken by the United States Bureau of Foreign and Domestic Commerce, revealed the attitude of American banks toward foreign correspondents in this as well as other respects. One point of view, as expressed by a bank that operates abroad through both branches and correspondents, is that, "We do not hold ourselves responsible for the neglect or failure of our corresponding banks to carry out instructions to protest, or, for that matter, to carry out any other instructions. If the collection is forwarded to one of our foreign branches, we naturally are responsible for the negligence of our branches, and we cannot disclaim any liability."[4]

The correspondent plan is utilized to a far greater extent than the branch system, even by American banks that possess adequate resources for adopting this method of operation. The Equitable Trust Company of New York, for example, has over 11,000 correspondents and the mere mention of such a figure clearly indicates the impossibility of any bank providing, by means of branches, such an extensive world-wide service. There are many places in the world where, regardless of theoretical advantages, a branch could not be profitably maintained.

Foreign Branches of American Banks.—The establishment of foreign branches by American banks was, until the passage of the Federal Reserve Act in 1913, permitted only under the laws of some states. Connecticut was among these and, in 1902, the International Banking Corporation,[5] was organized under its laws with broad powers and privileges. This bank has specialized in Far Eastern business and possesses an imposing list of foreign branches there and elsewhere.

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[4] *Protesting Drafts in Latin America*, United States Bureau of Foreign and Domestic Commerce, Trade Information Bulletin No. 112, p. 7.

[5] Owned by the National City Bank of New York.

The removal of the legal restrictions, as far as national banks were concerned, was accomplished by Section 25 of the Federal Reserve Act, which provides that any national bank possessing capital and surplus of $1,000,000 or more may obtain, upon application, permission from the Federal Reserve Board to establish branches abroad or to invest an amount not exceeding 10 per cent of its paid-up capital and surplus in the stock of American banks engaged principally in international or foreign banking either directly or through the control of a local banking institution. Subsequently, on September 17, 1919, an amendment to Section 25 of the Federal Reserve Act was approved, stipulating that any national bank irrespective of size might, up until January 1, 1921, invest 5 per cent of its paid-up capital and surplus in the stock of such American banks.

In response to these provisions and the rapidly expanding foreign trade of the United States, a movement set in toward the creation of foreign branches. Branches were established in foreign cities where business, either actual or prospective, was considered of sufficient volume to warrant the expense. In some cases, separate banks were organized in each country where it was desired to begin operations; in others, control of other banks already engaged in international banking was acquired. The latter procedure was followed by the Mercantile Bank of the Americas, which was organized for foreign business by a group of United States banks. This institution, in turn, organized the American Mercantile Bank of Peru, the American Mercantile Bank of Caracas, and other foreign banks and acquired the ownership of the National Bank of Nicaragua (an American company). On the other hand, the National City Bank of New York, with a large number of foreign branches, particularly in Latin America and Europe, acquired control of the International Banking Corporation[6] for the conduct of its Far Eastern business.

A perusal of the issues of the *Federal Reserve Bulletin* portrays the rise and wane of foreign branches of American banks. At the end of 1918 the *Bulletin*, on page 1196, presents a tabulation of all foreign branches of American banks, showing a total of 77, with Brazil having the largest number (eight), and France and Peru next with 7 each. This total figure was later increased as indicated by subsequent compilations, although a tabulation comparable with the former data did not appear until 1922. This general growth is indicated by several individual changes. In 1920 the National City Bank's branches numbered 55 compared with 14 in 1918, and the American Foreign Banking Corporation had 18 as against only 2 branches in 1918. During 1921, when a world-wide depression set in, a number of foreign branches of American banks were closed. By November of that year it was estimated that fourteen branches and agencies had already closed permanently or temporarily. The complete tabulation published in 1922, showed that there were over 120 branches (and sub-branches) of American banks abroad at that time. The National City Bank had less than 45 and the American Foreign Banking Corporation had 5, as compared with 55 and 18, respectively, in 1920.[7]

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[6] This company, on March 1, 1924, acquired control of the Asia Banking Corporation, its chief American complement in Far Eastern banking service, the Asia Banking Corporation ceasing to exist as a separate entity.

At the present time there are 96 branches and sub-branches of 8 American banks in foreign countries.[8] Of these, the National City Bank of New York possesses 73. The First National Bank of Boston and the American Trust Company of San Francisco are the only banks outside of New York operating abroad through foreign branches. Geographically, 28 of these branches are in Cuba, 21 in Europe (11 in England, 4 in France, 4 in Belgium and 2 in Italy), 17 in Asia (9 in China, 4 in Japan, 3 in India, and 1 in Singapore), 16 in South America (4 in Argentina, 4 in Brazil, 3 in Colombia, 2 in Chile, 1 in Peru, 1 in Uruguay and 1 in Venezuela), 10 in Central America (6 in the Dominican Republic and 4 in Panama), 2 in Porto Rico, and 2 in Mexico. In addition, there are several subsidiaries of American banks operating exclusively in Haiti, Europe, and the Far East.

The rapid war expansion in American branch banking abroad was occasioned by temporary demands and the recession since that time may be considered as having been natural, but, all in all, a decided addition to American foreign trading facilities has been attained.

The advantages of foreign branch banks differ somewhat from similar statements applied to the branch house method of merchandising, because a bank performs a different type of service. It is frequently asserted with apparent good reason that the operation of foreign branches by American banks is a question of national interest. This is particularly the case when, under the correspondent system, it is found necessary to select a branch of a foreign bank with headquarters in some nation competing in world markets with the United States. In an address at the Sixth National Foreign Trade Convention held in 1919 at Chicago, Illinois, this feeling was voiced by Mr. John E. Gardine, Chairman of the Board, International Banking Corporation, New York.[9] Mr. Gardine stated that branches of foreign banking institutions are established in other countries in the interest of their nationals and that this may lead them to resort to unfair methods of meeting competition. This competition may take the form of divulging trade secrets made available to the bank through the handling of documents, making copies of invoices, bills of lading, etc., and sending them to the home offices for use in aiding home manufacturers to compete more effectively; or of quoting unfavorable dollar exchange rates in order to throw trade financing into the hands of their own home banks. It does not, of course, follow that these criticisms apply to all foreign (third country) banks or even to a majority of them.

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[7] *Federal Reserve Bulletin*, 1922, pp. 1298-99.

[8] Memorandum of Federal Reserve Board, Nov. 7, 1929, submitted June 21, 1930.

As a corollary, it may be stated that an American branch bank is capable of managing business, and will manage it, in the interest of American trade. This may be done without any discrimination against foreign customers. The foreign branch, though thousands of miles away, is working directly for the customers of the home office. "They are thus all complete local banks, but in another aspect they are to be regarded as banking houses of one great international bank; the personnel and the policies of their organization are purposely kept homogeneous; they are not permitted to grow apart in the spirit of separateness they would necessarily feel if they were just foreign subsidiaries of some American institution. The American and foreign customers of the ——— Bank are thus all in one family, in a sense."[10]

This unity of interest is manifested in many ways. The branch gathers trade data, useful for the extension and protection of the foreign business of its clients (for they are its clients as well as of the home office), investigates information bearing upon credit risks in a manner as nearly comparable with American methods as local conditions permit and protects merchandise delivered in its care with a special interest in the rights of the American exporter. Moreover, the home office stands fully back of the branch and can never disclaim responsibility for its acts, thus providing a continuity of responsibility with no question as to the standing of the foreign connection.

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[9] *Proceedings, Sixth National Foreign Trade Convention*, 1919, p. 204.

[10] *Federal Reserve Bulletin*, 1918, p. 942.

Irrespective of the desirability of the branch method of foreign banking, from either the national or individual point of view, it is apparent that this plan must be financially practicable to the bank which employs it. Unfortunately, American banks have at times sustained losses from foreign branch operations. If the boom conditions that had drawn them into existence during the War had continued, these losses might not have been incurred. The period of prosperity enjoyed by a majority of the foreign branches was altogether too brief when the depression set in during 1920-21. The decline in prices caught branches with outstanding loans backed by greatly depreciated security, and the shrinkage in the volume of business created a comparative oversupply of banking facilities. Mr. Gardine, in the address referred to above, declared that the greatest difficulty in establishing a foreign branch bank, however, lay in procuring the needed personnel, for at that time, American personnel trained in banking work in foreign countries was generally not available. A process of training was undertaken, but this short and intensive preparation was not to be compared with that obtained by years of experience. Frequently, it was found necessary to employ foreigners to occupy positions of responsibility in foreign branches, and, as natives seldom were capable of filling the need, dependence was placed upon Europeans trained in this work. As the inexperience of Americans could not be expected to produce the best results, losses were sometimes incurred in foreign exchange and loan transactions.

In view of the reverses sustained in foreign branch banking, partly attested by the shrinkage in the number of such branches, can it be expected that this method of operation, desirable as it may be, will be more widely employed by American banks?

The experience related, it should be noted, occurred within a period of less than five years—years of decidedly abnormal world conditions. Under normal conditions of gradually growing foreign trade, the full effect of the trade advantages cited above should again become operative and a further stimulus to foreign branch banking lies in the rising volume of foreign investments.

When American banks establish branches abroad, they become amenable to the laws of foreign countries. Most foreign nations place no onerous restrictions on the establishment of branches by alien banks, merely requiring them to conform to certain documentary formalities[11] in addition to the regulations in effect for domestic banks. Many Latin American countries, moreover, until several years after the War, did not enact special legislation to control either domestic or foreign banks. In some countries, regulations are more stringent, imposing restrictions as to functions, capital requirements, and the investment of capital funds, surplus, and other matters. Occasionally, strong patriotic feelings may render it difficult for an American bank to procure a foothold in certain foreign countries.

Foreign Trade Banks.—Another type of banking facility for foreign trade consists of banking institutions organized solely for the purpose of engaging in international financial transactions. Banks of this nature are rare in the United States but they are quite common in some other industrial countries. First to be mentioned in this connection are the so-called "Edge Law banks." The Edge Law, which was enacted in December, 1919 as Section 25A of the Federal Reserve Act, provides for the Federal incorporation of concerns to engage solely in international or foreign banking or in other foreign financial operations.

The Edge Law permits the incorporation of two distinct types of banks, first, commercial banks, performing functions relating to the exportation and importation of merchandise, such as dealing in drafts, letters of credit, foreign exchange and bullion; and second, investment banking houses, buying and selling foreign securities and issuing their own debentures secured by bonds, stocks, etc., of foreign corporations or governments. By this means, the investment bank is permitted to extend long-term credit to foreigners by accepting as security the stocks, bonds and other valuable papers they may offer; and, in turn, selling in the American market its own debentures, based upon these foreign securities. In no case is an Edge bank permitted to perform both the commercial and investment banking functions.

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[11] *See* Chapter XXXIII.

The Federal Reserve Board exercises close supervision over Edge Law banking corporations, requiring that annual reports be filed and that the permission of the Board be obtained for any variations from the legal stipulations. The life of Edge corporations is twenty years, renewable for similar periods. A minimum capital of $2,000,000 is required, a majority of which must be held by American citizens or concerns. With minor exceptions, these banks are to engage only in business of an international character. If a commercial bank, it may generally receive deposits from outside of the United States only. If a debenture and investment business is transacted, the liabilities assumed when debentures are issued are restricted to ten times its capital and surplus. Moreover, investments in one foreign corporation may not exceed 10 per cent of the capital and surplus of the Edge corporation, except in the case of investment in a banking institution, when the limit is set at 15 per cent.

Only four banks have so far been completely organized under the Edge Law; two of these, the First Federal Foreign Banking Association, New York, and the Federal International Banking Company, New Orleans, having been liquidated. Both of these institutions were of the acceptance or commercial banking type. The only Edge corporations now in operation are the First Federal Foreign Banking Corporation, New York, organized in 1926 and performing essentially a debenture or investment business; and the Chase Bank, New York, organized in 1930.[12] The plans of two additional corporations were approved by the Federal Reserve Board in 1921 and 1922, but neither has commenced operation.

A further piece of wartime legislation containing provisions for the financing of foreign trade through a banking institution, was the War Finance Corporation Act of 1918. Sections of this law empowered the War Finance Corporation, a United States Government institution, originally organized for the purpose of providing war credit, to make advances to individual traders, associations, bankers, or foreign buyers, particularly to those engaged in the trade in agricultural products. A great reservoir of bank credit was thereby directed into peace-time foreign trade activity and the depression of 1920-21 was a determining factor in granting this facility. According to the last amendment to the Act (Agricultural Credits Act, approved March 4, 1923) the War Finance Corporation was authorized to make advances and purchase notes, drafts, bills of exchange, etc., until February 29, 1924; and to issue up to January 31, 1927, notes or bonds destined to mature not later than June 30, 1927. Although now only history, this United States Government institution will be long remembered as a war and emergency measure of vast proportions.

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[12] Under date of July 12, 1930, the Chase Bank advised that it is operating as a commercial banking institution. It has acquired the former Paris branch and the Mexico City office of the Equitable Trust Co. of New York.

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CHAPTER XXVI

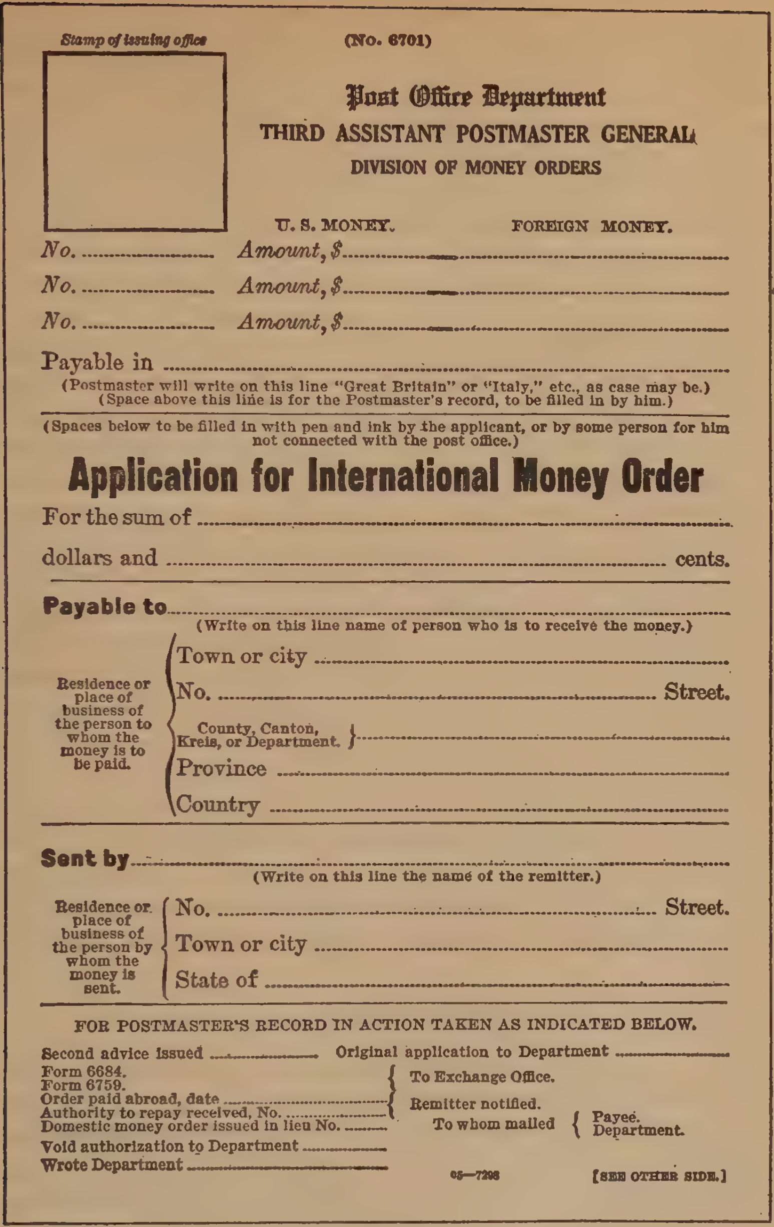
METHODS OF FINANCING EXPORTS AND IMPORTS

The financial arrangements entered into between exporters and importers for the payment of obligations incurred may be broadly classified into (1) cash; (2) open account; (3) bill of exchange (trade bill), and (4) letter of credit (bank acceptance). There is at times an overlapping within this classification, and its application in detail results in whatever variations may be necessary to meet the requirements of each particular transaction. The cash method of payment, like the open account, does not always involve the use of the standard document evidencing a financial obligation—the bill of exchange. Payment under these two methods may come from the buyer at his own initiative, while the use of a bill of exchange generally indicates that the seller has initiated steps to procure payment.

CASH

As discussed in this chapter, "cash" is the remittance of funds by such means as international money orders or bank drafts. Cash may be called for with the order, or at shipment, or, as is often the case, at time and place of exportation. In such events, it refers more to the time than to the method of payment. In the case of cash with order, the buyer is required to provide payment without any collateral obligation being assumed by the exporter. If cash is called for upon shipment of the merchandise from an interior point or seaboard point, the exporter is obliged to produce, pack, and ship the goods before he is entitled to receive payment.

Cash methods of payment, at best, are unattractive to the buyer. In the case of cash upon shipment, he assumes the entire burden of financing the shipment; he is out of funds a considerable time before he receives the goods, incurring a loss in the use of working capital as well as a loss in interest; and he resents the possible imputation that he is unworthy of credit



Stamp of issuing office

(No. 6701)

Post Office Department

THIRD ASSISTANT POSTMASTER GENERAL

DIVISION OF MONEY ORDERS

	U. S. MONEY.	FOREIGN MONEY.
No.	*Amount, $*....................	....
No.	*Amount, $*....................	....
No.	*Amount, $*....................	....

Payable in ....

(Postmaster will write on this line "Great Britain" or "Italy," etc., as case may be.)
(Space above this line is for the Postmaster's record, to be filled in by him.)

(Spaces below to be filled in with pen and ink by the applicant, or by some person for him not connected with the post office.)

Application for International Money Order

For the sum of ....

dollars and .... cents.

Payable to..
(Write on this line name of person who is to receive the money.)

Residence or place of business of the person to whom the money is to be paid.
Town or city ....
No. .... Street.
County, Canton, Kreis, or Department. } ....
Province ....
Country ....

Sent by..
(Write on this line the name of the remitter.)

Residence or place of business of the person by whom the money is sent.
No. .... Street.
Town or city ....
State of ....

FOR POSTMASTER'S RECORD IN ACTION TAKEN AS INDICATED BELOW.

Second advice issued ....
Form 6684.
Form 6759.
Order paid abroad, date ....
Authority to repay received, No. ....
Domestic money order issued in lieu No. ....
Void authorization to Department ....
Wrote Department ....

Original application to Department ....
{ To Exchange Office.
{ Remitter notified.
To whom mailed { Payee. Department.

05—7298

[SEE OTHER SIDE.]

FORM I. APPLICATION FOR INTERNATIONAL MONEY ORDER extension. The terms of cash with order are open to even more serious objection, as the buyer is, in this case, entirely dependent upon the honesty, solvency, and promptness of the exporter. These factors may be largely unknown to the importer.

It is to be anticipated that cash payment will be required by certain exporters, of certain importers, and in certain territories. If the exporter is shortsighted in his export policy, or is financially weak, or is shipping goods abroad spasmodically, he may insist upon cash payment, in one form or another. If the importer is of unknown or of doubtful standing, he cannot expect (although he usually requests) the extension of credit. When custom prevails, as in the case of remote parts of the world, or when internal conditions in a country are unsettled, thus casting a continual element of doubt upon the future paying ability of residents of that country, cash is the logical method of payment. Moreover, unusual conditions may create a seller's market resulting in the competition of buyers to have orders filled, and at such time, prepayment of cash is readily obtained.

A departure from the strict terms of cash with order occurs in the requirement of partial cash in advance. The amount of prepayment required in this instance is generally sufficient to reimburse the exporter for freight and all transportation charges to and from the foreign destination, as well as insurance and all other expenses which the exporter would lose in case the shipment were refused by the importer and subsequently returned. Adequate protection may thereby be afforded the exporter and the flexibility of this method, coupled with other means of payment for the balance, affords a desirable method of financing.

OPEN ACCOUNT

The open account method of obtaining payment for export shipments swings to the opposite extreme as a method of financial settlement. Under an open account extension, goods are shipped to the consignee without documents calling for payment, the commercial invoice of the exporter acting as indication of liability. Payment for the goods shipped is usually stipulated as a certain number of days after date of shipment or occasionally it may be left to the discretion of the buyer. Open account payment is also provided under a consignment shipment, in which case reimbursement for the goods is to be made when they have been disposed of.

It is to be seen that no documentary basis of obligation or of ownership is provided under the open account method. This lack of security to the seller of the goods presents the singular distinction between the open account and other credit methods of payment. In view of the fact that a documentary basis is absent, the open account method presents obvious difficulties. Only unreliable means of safeguarding the interests of the exporter are available, and although under the law of one country he may be able to sustain his rights, it is not possible to do so in every country because of the divergence of law and custom obtaining throughout the world. Moreover, it is unusual for a bank to make advances to an exporter on the security of his accounts receivable. This unwillingness on the part of the banks places the entire burden of financing the business upon the shoulders of the exporter. With the extended use of the open account, a greater amount of liquid capital is obviously needed by the seller than under other forms of payment. A further risk that is assumed by the exporter is the exchange risk, when prices are quoted in foreign currency. Due to the indefinite maturity of the invoice, it may be impossible for the exporter with any degree of accuracy to avail himself of the methods of protection against exchange losses.

The same difficulties apply in connection with *accounts current.* √ "Under this arrangement shipments are made likewise without documents and the privilege is extended to foreign buyers to remit before the expiration of a certain period (say, six months), or they are allowed to exceed that period. When payments are anticipated, a special discount is allowed or interest for anticipation calculated. If payment is made beyond the specified period, interest is charged. This form of account is a favored one with the manufacturers of Great Britain and some of the continental countries. It is widely known in South America."[1]

Clearly the difficulties of the open account method to the exporter are quite parallel with the drawbacks of cash payment from the point of view of the importer.

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[1] From address of E. B. Filsinger, "Is Credit Necessary in Export Trade?" *Proceedings, Thirteenth National Foreign Trade Convention,* p. 249.

Sales on open account can safely be made only to customers of the highest credit standing and then only when stable and favorable economic and political conditions prevail. The exporter who sells on open account is required to be in a strong position in order that he may safely undertake the risks and financial burdens imposed upon him. Distance is also a factor influencing open account payment. In the trade with Canada, for example, payment is stipulated in substantially the same manner as in the United States domestic trade, and much of the business is conducted on open account. The same is true, in some lines, in the trade with Great Britain. Although distance favors the same treatment with regard to Mexico, the recurring political disturbances there militate against the importers who otherwise are deserving of this courtesy; and in Cuba an economic uncertainty due to the fluctuations in the price of sugar is a deterring factor.

The open account, as is also the case with cash payments, is a desirable method of designating payment because of its inherent simplicity. In the open account, merely a book entry is made to evidence the obligation, and in cash terms, payment is taken care of in advance. There is no necessity of making banking arrangements, no drafts to draw, and no commissions or fees of any consequence to pay. A decided ease of operation, appreciated by both the buyer and seller, is provided. These favorable conditions are, however, outweighed by the obvious difficulties encountered in the general adoption of either of these methods of payment.

BILLS OF EXCHANGE (TRADE BILLS)

We come now to a method of payment which is more common than the two previously discussed. In the case of bills of exchange there is a documentary evidence of obligation; and the assumption of the entire financial burden is sustained by neither the exporter nor the importer. Probably the greater part of international commerce is financed on this basis. Out of the world's international trade of seventy billion dollars, perhaps more than fifty billion dollars of it is paid for by bills of exchange, including those drawn under letters of credit.[2]

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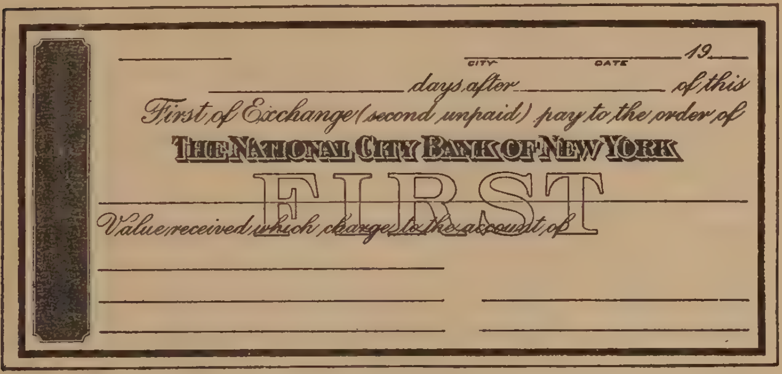
[2] *The Movement to Unify the Laws Regarding Bills of Exchange and Checks*, League of Nations Association, May, 1930, p. 3.

Trade bills consist of drafts or bills of exchange drawn by sellers of goods, calling upon the buyers either to pay, or to accept for payment at a determinable future time, the bills so drawn for the amount indicated. Acceptance consists of an acknowledgement to this effect written across the face of the draft and signed by the drawee (buyer), obligating him to provide payment of the amount stipulated within the period of time designated. When accepted, the draft becomes a "trade acceptance." The two features provided by this method of payment and which are essential to satisfactory use in international trade are, first, a documentary evidence of obligation readily transferable and, second, a definite time for the maturity of the obligation of payment.

Types of Drafts.—A draft drawn without any collateral documents attached is known as a "clean" draft, while one requiring certain stipulated documents of shipment, insurance, etc., to be attached is known as a "documentary" draft. In international trade, the documentary type is employed almost exclusively, as otherwise there is no way of exercising proper control over a shipment after it has gone forward.



19

CITY DATE

days after of this

First of Exchange (second unpaid) pay to the order of

THE NATIONAL CITY BANK OF NEW YORK

FIRST

Value received which charge to the account of

FORM II. NEGOTIABLE BILL OF EXCHANGE

The time at which the payment of a draft is to be made is indicated in the terms of sale agreed upon between the buyer and seller. This time is known as tenor or usance, and with respect to tenor, drafts or bills of exchange are of three kinds: (1) sight drafts; (2) date drafts; and (3) arrival drafts. A sight draft, literally interpreted, calls upon the drawee to pay or accept the draft upon ''sight'' or presentation. This may mean that the draft will be payable before the goods arrive abroad, because the draft is dispatched through the mails and the goods move by slower lines. In some countries, it is an accepted custom for a bank holding a draft to await the arrival of the goods for which the draft was drawn before presenting it to the drawee.

Arrival drafts would seem to avoid the difficulties arising from the earlier delivery of the sight draft. The word ''arrival'' makes definite reference to the shipment, while in the sight draft, the word ''sight'' refers only to the bill of exchange. Inasmuch as drafts are usually drawn in duplicate and are sent through the mails, arrival abroad is more certain than is the arrival of the goods, which ordinarily travel on cargo vessels. For this reason, there is no precise due date of an arrival draft, as the merchandise may never arrive at destination. The absence of a definite or ascertainable maturity date makes arrival drafts non-negotiable in many foreign countries and in lieu of arrival drafts, it is better for general practice to employ sight drafts, and to instruct the bank to defer presentation of the draft until the goods have arrived. The date draft calls for payment on a specified date or, as usually is the case, at so many days after date and is affected in no way by the movement of the goods. The maturity is definite but withal rigid and inflexible.

When the terms of payment extend for a longer period than sight, arrival, or date, the time designation is made as so many days after sight, arrival, or date. Ordinary periods of time for which drafts are written are thirty, sixty, and ninety days. A sixty-day sight draft, for example, calls upon the drawee to meet his obligation within sixty days after he has accepted the draft. Here again the time sight draft is generally employed due to its greater flexibility, although date drafts, in spite of their rigidity, are also widely used. The time arrival draft is subject to the same disadvantage as the straight arrival draft. It is true, however, that the maturity of a date draft is much more accurately set than is the case with a sight draft, as it is impossible to know exactly when a sight draft will be presented for acceptance and the obligation thus begin to run. In practice this is determined approximately from the average length of time required to send a draft to a particular country for acceptance or payment. By adding this time to the tenor of the draft, a fairly accurate estimate of the maturity date is obtained. Thus, in the case of most shipments to Brazil, about three weeks are allowed for sending a draft to destination, and a sixty-day sight draft can thus be computed to mature in Brazil within 81 or 82 days. Figuring the approximate time of 45 days for the round trip, the funds from collection under this draft should be received within 60 plus 45 or 105 days after the draft has been sent.

An interesting observation in connection with the use of different types of drafts may be drawn from a survey undertaken by Mr. W. S. Swingle, Director, Foreign Department, National Association of Credit Men, among several hundred members of the Foreign Credit Interchange Bureau of that organization. This survey revealed "that 54% usually draw on a sight basis, 32% on a date basis and 14% made no differentiation between the two. . . . It is particularly interesting to note that there is quite a tendency for placing drafts on a date basis and while a number of comments indicate that their usual practice is to draw at sight, they are changing this as rapidly as possible to a date basis."[3]

In addition to the time designation in a quotation involving the use of drafts, there is also a declaration of the mode of transfer of the documents covering the shipments. The fundamental documents required in international trade and which are called for in draft transactions are (1) ocean bills of lading, negotiable, made out to order and endorsed in blank. One full set (three) of these papers is generally required but the number varies according to the regulations of the steamship company; (2) marine insurance certificate, in duplicate; or marine insurance policy; (3) commercial invoice, in duplicate. These are the minimum documents required, both as to number of copies and type. The importance of each can be briefly presented.

A negotiable bill of lading, endorsed in blank, is (*a*) a receipt for the goods, (*b*) a contract of carriage, and (*c*) an evidence of title to the property, the holder being the lawful owner. With the careful handling of this document and its transfer from hand to hand as legitimate owners supplant each other, full control of the goods may be exercised. Unless the drawee pays or accepts the draft covering the shipment, possession of the bill of lading will be withheld by the bank, and without the bill of lading the goods generally will not be delivered to him. The marine insurance certificate or policy protects the shipment and consequently holders for value, against marine and other insurable perils, thus nullifying this element of risk.[4] The commercial invoice indicates the types, quantities, prices, terms, and other matters relating to the merchandise that has been shipped and insured. Other documents which may be necessary or advisable at times are packing lists, consular invoices, or certificates of origin, when required by foreign governments, and inspection certificates for certain products.

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[3] From an address by W. S. Swingle, Director, Foreign Department, N. A. C. M. at Convention of N. A. C. M., June 9, 1927.

Since the possession of essential documents is so important, their transfer is an integral part of financing, and instructions as to their disposal are always included in the sales terms. This may be accomplished by payment of the draft or by acceptance of the draft, as indicated respectively, by the expressions "documents for (or against) payment" and "documents for (or against) acceptance, respectively."

Combining the tenor of drafts and the mode of transfer of documents, we arrive at the forms widely employed in international transactions. A few of these designations are given for illustration:

At sight (S/D). Draft payable upon presentation, and a complete statement would include "documents for payment" (D/P).

Thirty days after sight (30 days S/D–D/A). Draft payable thirty days after presentation and acceptance, the documents being delivered upon acceptance.

Thirty days after date. Draft payable thirty days after the date on which it is made out, documents being delivered against acceptance of the draft, or against payment, as arranged.

On arrival. Draft payable upon the arrival of the merchandise, which may be greatly delayed or may never occur. Documents delivered against payment of the draft.

In the case of a time sight draft, documents against payment, as, for example, 90 days S/D-D/P, an anomaly appears to exist, since the draft is payable ninety days after presentation and acceptance but the documents are not to be delivered until payment. The significance of this type of payment appears in quotations to distant markets where it is customary to order merchandise in large lots. An Oriental importer of textiles, for example, might order a large quantity of piece goods to supply him for an entire season's trade. He may not be in a position to pay for the entire lot at once; and, under the terms now considered, he makes withdrawals and pays for each unit withdrawn, as he finds it convenient, receiving the documents which authorize possession as he pays for each lot of merchandise. The time designation of 90 days means that the full amount of the draft is to be retired within this period after acceptance.

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[4] For discussion of marine insurance, *see* Chapter XLIII.

Making Draft Collections.[5]—When trade bills or drafts are drawn in international trade, the exporter (drawer) may dispose of them by discounting, by borrowing, or by placing for collection. He may discount or sell the document to a bank or he may obtain an advance or loan from a bank, with the draft and collateral documents as security. It is not to be understood, however, that it is always possible to realize the first option; nor that a loan may always be obtained for the face amount of the draft in the second case. Inasmuch as recourse is always reserved against the drawer of a trade bill, his standing has an important effect upon the saleability of his drafts. In case the drawer seeks a loan from his bank with the documents as collateral, he may be forced to accept, say 90, 75, or 60 per cent of the face of the draft. This may in no way be a reflection upon his integrity but may be determined by the marketability of the goods offered as security and by the interest of the banker in the business offered to him. Staple goods, for example, are more readily saleable than are specialties, and generally command a larger loan.

In any event, the bank will deduct a discount from the amount allowed the drawer of the draft. The discount represents interest usually at 6 per cent per year for the estimated length of time elapsing from the date of discounting or hypothecating the draft until the funds are in the possession of the bank again. This period of time is computed in the same manner as given above for estimating as accurately as possible the maturity date of a sight or time-sight draft. The exporter may pass this expense on to the importer by concealing it in his price or by charging the interest to him, as will be discussed at a later point.

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[5] *See* G. C. Poole, *Export Credits and Collections*, Chaps. XII, XIII.

If the exporter or drawer is not seeking to discount or to borrow on his draft, the draft and all documents attached are passed on to the bank, with instructions to send them abroad for collection. In international trade, drafts are usually drawn in duplicate, in order that delays or losses may be avoided as much as possible. If the first draft reads, "60 days after sight of this first of exchange (second unpaid)," the duplicate draft will read "60 days after sight of this second of exchange (first unpaid)." The latter is sent forward to the collecting bank on the mail steamer following the first draft and is automatically valueless in case the first has arrived safely.

The instructions that are given to a bank in connection with the use of drafts are decidedly important, the most significant points to be covered being:[6]

1. Explicit identification of the drawee, particularly where his name is a common one.
2. Whether shipping documents are to be surrendered against acceptance of the draft or only against payment.
3. Whether acceptance or payment may or may not be deferred until the arrival of the goods in the event that the shipment had not arrived prior to the arrival of the draft.
4. Whether the drawee is to be given the privilege of inspection of the merchandise.
5. Whether the foreign bank shall protest the draft in the event of non-acceptance or of non-payment.
6. Whether the presenting bank is to cable in the event of the dishonor of the draft. It is usually important to have this done, because prompt notice of rejection enables the drawer to take speedy action in re-selling and salvaging the merchandise.
7. Whether interest and collection charges are to be borne by the drawee, and whether such charges are to be waived if payment of them is refused.
8. Full instruction as to the disposition of the goods (warehousing, insurance, etc.), in the event that the drafts are dishonored.
9. The giving of the name and address of the foreign representative or attorney with whom the bank should communicate in case of trouble, and a statement whether such party is empowered to act with full authority, or only to serve in an advisory capacity.

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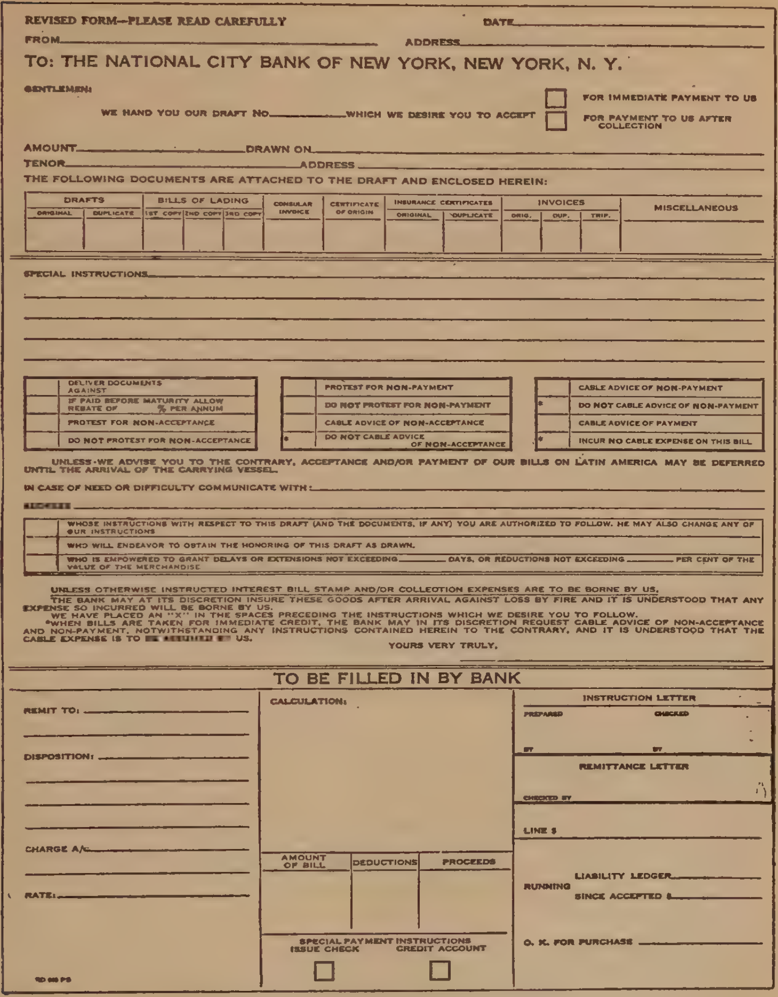
[6] L. O. Bergh, *Drafts in Foreign Trade.*

In the fifth point above, "protest" consists of the entering of a formal notice of refusal on the part of the drawee to pay or to accept the draft as agreed and this step is necessary in most countries to sustain legal action resulting from such refusal.



REVISED FORM—PLEASE READ CAREFULLY DATE__________

FROM__________ ADDRESS__________

TO: THE NATIONAL CITY BANK OF NEW YORK, NEW YORK, N. Y.

GENTLEMEN:

WE HAND YOU OUR DRAFT No.__________WHICH WE DESIRE YOU TO ACCEPT
☐ FOR IMMEDIATE PAYMENT TO US
☐ FOR PAYMENT TO US AFTER COLLECTION

AMOUNT__________DRAWN ON__________

TENOR__________ADDRESS__________

THE FOLLOWING DOCUMENTS ARE ATTACHED TO THE DRAFT AND ENCLOSED HEREIN:

DRAFTS		BILLS OF LADING			CONSULAR INVOICE	CERTIFICATE OF ORIGIN	INSURANCE CERTIFICATES		INVOICES			MISCELLANEOUS
ORIGINAL	DUPLICATE	1ST COPY	2ND COPY	3RD COPY			ORIGINAL	DUPLICATE	ORIG.	DUP.	TRIP.	

SPECIAL INSTRUCTIONS__________

	DELIVER DOCUMENTS AGAINST
	IF PAID BEFORE MATURITY ALLOW REBATE OF % PER ANNUM
	PROTEST FOR NON-ACCEPTANCE
	DO NOT PROTEST FOR NON-ACCEPTANCE

	PROTEST FOR NON-PAYMENT
	DO NOT PROTEST FOR NON-PAYMENT
	CABLE ADVICE OF NON-ACCEPTANCE
*	DO NOT CABLE ADVICE OF NON-ACCEPTANCE

	CABLE ADVICE OF NON-PAYMENT
*	DO NOT CABLE ADVICE OF NON-PAYMENT
	CABLE ADVICE OF PAYMENT
*	INCUR NO CABLE EXPENSE ON THIS BILL

UNLESS WE ADVISE YOU TO THE CONTRARY, ACCEPTANCE AND/OR PAYMENT OF OUR BILLS ON LATIN AMERICA MAY BE DEFERRED UNTIL THE ARRIVAL OF THE CARRYING VESSEL.

IN CASE OF NEED OR DIFFICULTY COMMUNICATE WITH:__________

[illegible]__________

	WHOSE INSTRUCTIONS WITH RESPECT TO THIS DRAFT (AND THE DOCUMENTS, IF ANY) YOU ARE AUTHORIZED TO FOLLOW. HE MAY ALSO CHANGE ANY OF OUR INSTRUCTIONS
	WHO WILL ENDEAVOR TO OBTAIN THE HONORING OF THIS DRAFT AS DRAWN.
	WHO IS EMPOWERED TO GRANT DELAYS OR EXTENSIONS NOT EXCEEDING_____DAYS, OR REDUCTIONS NOT EXCEEDING_____PER CENT OF THE VALUE OF THE MERCHANDISE

UNLESS OTHERWISE INSTRUCTED INTEREST BILL STAMP AND/OR COLLECTION EXPENSES ARE TO BE BORNE BY US.

THE BANK MAY AT ITS DISCRETION INSURE THESE GOODS AFTER ARRIVAL AGAINST LOSS BY FIRE AND IT IS UNDERSTOOD THAT ANY EXPENSE SO INCURRED WILL BE BORNE BY US.

WE HAVE PLACED AN "X" IN THE SPACES PRECEDING THE INSTRUCTIONS WHICH WE DESIRE YOU TO FOLLOW.

*WHEN BILLS ARE TAKEN FOR IMMEDIATE CREDIT, THE BANK MAY IN ITS DISCRETION REQUEST CABLE ADVICE OF NON-ACCEPTANCE AND NON-PAYMENT, NOTWITHSTANDING ANY INSTRUCTIONS CONTAINED HEREIN TO THE CONTRARY, AND IT IS UNDERSTOOD THAT THE CABLE EXPENSE IS TO [illegible] US.

YOURS VERY TRULY,

____

TO BE FILLED IN BY BANK

REMIT TO:__________

DISPOSITION:__________

CHARGE A/c__________

RATE:__________

[illegible]

CALCULATION:

AMOUNT OF BILL	DEDUCTIONS	PROCEEDS

SPECIAL PAYMENT INSTRUCTIONS
ISSUE CHECK ☐
CREDIT ACCOUNT ☐

INSTRUCTION LETTER
PREPARED BY
CHECKED BY

REMITTANCE LETTER
CHECKED BY

LINE $__________

RUNNING LIABILITY LEDGER__________
RUNNING SINCE ACCEPTED $__________

O. K. FOR PURCHASE__________

FORM III. BANK INSTRUCTIONS

Drafts may be drawn without naming the exact amount due. A number of items, although small, must be considered in drawing a draft in order that the exporter may recover the full amount to which he is entitled. Such items include interest, bank charges, and rates for money transfers. In case these items are to be borne by the drawee, and are not included in the price, an indication to this effect may be made in the draft. Thus, a draft may state, after naming the sum for which it is drawn, "plus all collection charges and interest at the rate of 6 per cent per annum." However, tact is required in placing these and other items in the body of a draft, since they usually prove irritating to the drawee and it is much the better practice to include in the price small items, other than those ordinarily employed in the trade, rather than to create resentment by displaying them separately.

As to the funds to be provided by the drawee to liquidate his obligation at maturity, a clause may be inserted in a draft to indicate the rate at which payment is to be made. This may read, in case of sight drafts, "payable at the collecting bank's selling rate on day of payment for sight drafts on New York." In the case of bills drawn on oversea areas of the British Empire, it is customary, in settling the question of funds, to insert the colonial clause, "payable with exchange, English and colonial stamps added, at the current rate in London for negotiating bills on the colonies."

Additional items, although likely to be small, are of sufficient importance to warrant careful handling. The insertion of such clauses as those mentioned, however, is not permissible everywhere because their presence renders the amount of the draft indefinite and therefore illegal. Such instances must be carefully watched and, indeed, the entire subject of draft transactions is so technical, and details vary so greatly with different countries, that the constant advice of informed bankers should be sought.

The trade bill method of payment, as has been pointed out, places the final responsibility upon the exporter, as he is subject to recourse until the importer has completely settled his obligation. Indeed, one of the disadvantages of discounting drafts, rather than placing them for collection, lies in the possibility of considering them as closed transactions, whereas they can never be so considered until the drawee has remitted. In the following illustration of a draft transaction, it should be borne in mind that the exporter is contingently liable until the entire deal is completed:

1. In the negotiations between the exporter and the importer, agreement is reached upon terms of 60 days S/D–D/A. The exporter has, in agreeing to these terms, figured interest in the price at the rate of 6 per cent per annum for the estimated length of time that will pass before the money will reach him, and, in addition, bank and collection charges of say ⅛ per cent.

2. When the shipment is ready, the exporter draws a 60-day S/D on the importer. Together with the required copies of bills of lading, insurance certificates, commercial invoices, packing lists, and any other necessary documents, he sends the draft to the bank. The bill of lading is made out to order and may be endorsed either in blank or to the bank.

3. If the exporter wishes to discount or to secure a loan on the draft, and is successful in so doing, he turns over all the documents in return for the amount advanced to him, less discount. If he places the draft for collection, he is merely asking the bank to perform a service for him and to pay the funds when received from the importer.

4. The bank now holds title to the goods by possessing the essential documents properly endorsed. A set of documents and the first bill of exchange are dispatched by mail (the second set to follow later) to the correspondent or branch bank in the importer's country. Upon receiving the documents, title passes to the latter.

5. The importer is notified of the arrival of the documents and as he may be anxious to receive the goods, he accepts the draft, whereupon the documents are turned over to him, thereby transferring title. The tenor of the draft (sixty days) begins at date of acceptance.

6. When the sixty days have elapsed, the importer is called upon to pay the draft to the correspondent or branch bank. If he does so, the funds are sent to the American bank, which pays the exporter and he is relieved of further responsibility. If the importer fails to pay the draft, protest is entered by the foreign bank according to the instructions issued by the exporter.

Although the authority to purchase will be studied in connection with letters of credit, it is well to mention this document while trade bills are under consideration. The authority to purchase is a bank document but, as will be pointed out, the transaction based thereon is a typical trade bill transaction, with the addition of a possible element of greater security to the exporter.

COMMERCIAL LETTERS OF CREDIT

In the fourth method of obtaining payment in foreign trade, we shall really find a supplement to the draft or trade bill method just discussed. In the letter of credit plan, however, drafts are drawn upon a bank and not upon an importer and thus become *bank bills* rather than *trade bills.* A greater security therefore attaches to the transaction than in the case of trade bills and this greater security of receiving payment at once attracts the attention and interest of the exporter. It is not to be presumed, however, that this security is to be realized in every instance. Letters of credit vary widely to fit into many different purposes and conditions. Attempts at standardization have been made, as, for example, the recommendations by the American Acceptance Council of the uniform letters of credit devised in 1919 by the Commercial Credit Conference. Although there has been no widespread adoption of these forms there has "been brought about a redrafting of forms so that while they do not always strictly follow the forms introduced by the American Acceptance Council they do so in principle and are closely in line with those used by the largest banks throughout the country. Furthermore, we [the American Acceptance Council] have been successful in having important changes made in the forms used by foreign banks so that the letter of credit now more nearly approaches international uniformity than at any other time."[7] The International Chamber of Commerce has also recommended uniform regulations governing documentary credits.[8]

A commercial letter of credit is now generally defined as an instrument issued by a bank at the request of a buyer of goods whereby the bank itself undertakes to accept or pay drafts drawn upon it by the seller of the merchandise concerned, provided he conform to the requirements set forth in the document. A letter of credit thus provides a means of substituting bank credit for mercantile credit and affords the exporter security (almost a guarantee) of payment greater than in the case of trade bills.

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[7] Quoted from letter of Robert H. Bean, Executive Secretary, American Acceptance Council, July 26, 1927.

[8] International Chamber of Commerce, Resolutions Passed at the Amsterdam Congress (July 8-13, 1929), October, 1929.

From the preceding definition it may readily be seen that three essential parties to a commercial letter of credit are, (1) the buyer who opens the credit and known as the opener, account, importer, etc.; (2) the bank which issues the letter of credit, and known as the issuer; and (3) the seller in whose favor the credit is opened and who is known as the beneficiary or accreditee. In practice, however, additional parties are introduced in order to perform certain necessary functions. For the sake of clarity it is well to note that in addition to the three parties already mentioned, only one other party to a letter of credit transaction creates a new credit relationship and that is (4) the confirming bank. The confirming bank is the bank in the beneficiary's country, which, at the request of the beneficiary, is instructed by the issuer to confirm the undertaking of the issuer. Confirmation will be more fully discussed at a later point.

Additional parties usually found in a letter of credit transaction, but in no way affecting the credit relationship and financial responsibility already set up, are (5) the notifying bank; (6) the paying or accepting bank, and; (7) the negotiating bank. The notifying bank or notifier, is a correspondent of the issuer, located in the country of the beneficiary, that notifies the beneficiary of the opening of the credit, unless, of course, direct advice is given by the opener or issuer. In case the letter of credit is also confirmed, the notifying and the confirming bank are the same. The paying or accepting bank is usually called into the operation of a letter of credit when the credit is opened in a currency foreign to the beneficiary, as when other than dollar credits are opened in favor of American exporters or by American importers. The paying or accepting bank is instructed by the issuer to accept or pay the drafts drawn upon the former by the beneficiary. The negotiating bank or negotiator is a bank also in the country of the beneficiary which voluntarily (not by instruction of the issuer) pays the drafts of the beneficiary drawn under the letter of credit. This party usually is also the notifier—the notifier by appointment of the issuer and the negotiator of the drafts on its own volition. In a broader sense, any bank that pays or accepts the drafts, whether or not on its own initiative, may be said to negotiate the drafts and the term negotiator may sometimes be used interchangeably with paying or accepting bank. A banking institution is attracted to negotiating drafts because of the interest and bank charges which it receives for this service.

Types of Letters of Credit.[9]—Letters of credit are of various types to fit into various conditions. It is always good policy to be fully informed regarding the particular document which may be employed in any transaction. The following are the principal types of commercial letters of credit, other kinds referring principally to bank procedure being omitted.

As to cancellation or duration, letters of credit may be irrevocable or revocable. This privilege obviously refers to the right of the issuer to revoke the undertaking to honor drafts drawn upon it. Just at what point in the progress of the transaction this privilege may be availed of is by no means a settled question.[10] In actual practice, the term ''letter of credit'' is generally accepted in the literal sense which it logically conveys, and irrevocability is usually understood. Furthermore, a letter of credit may be confirmed or unconfirmed. If confirmed, then the irrevocable obligation of the issuer is guaranteed by the confirming (also notifying) bank located in the beneficiary's country. This act is generally understood to impose upon the confirming bank the same responsibility as attaches to the endorser of a check. Confirmation is sought by the beneficiary in case he is dissatisfied with the security offered by the issuing bank, which is foreign to him, and he therefore desires, in addition, the undertaking of a bank in his own country, and in which he would be likely to have greater confidence. Combining the types of letters of credit which embrace the entire range of bank responsibility from the angles of revocation and confirmation, we have (1) *revocable and unconfirmed;* (2) *irrevocable and unconfirmed,* and (3) *irrevocable and confirmed.*

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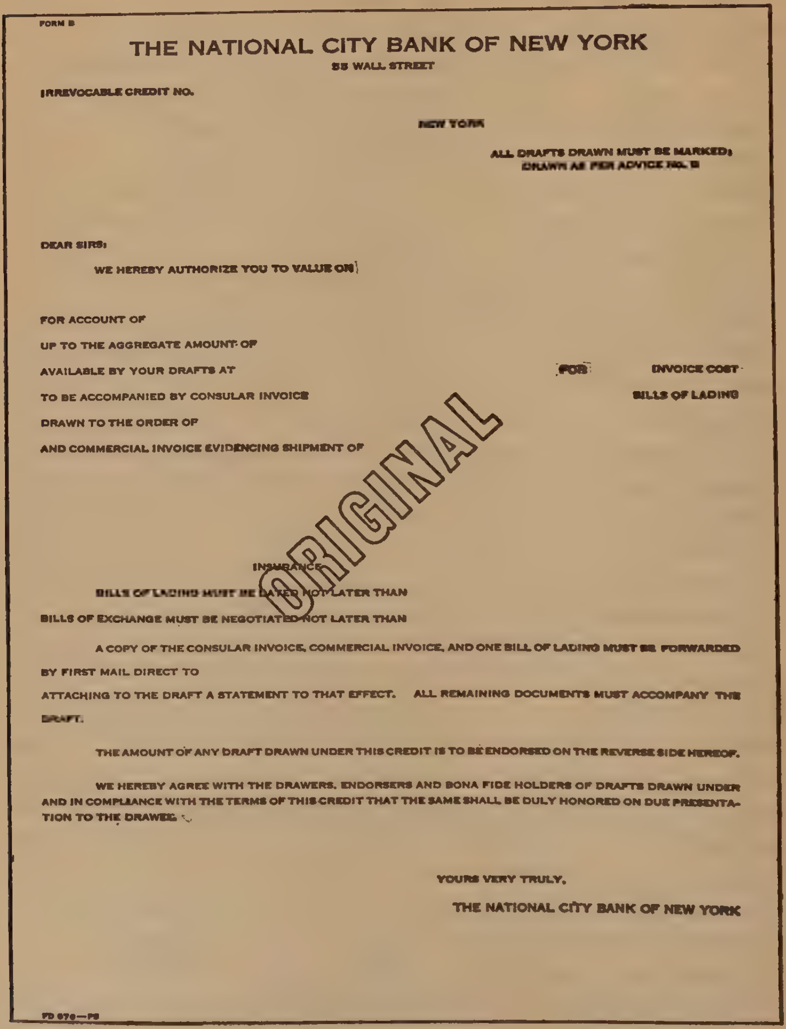
[9] *See* George W. Edwards, *Foreign Commercial Credits*, Chap. III, and Wilbert Ward, *American Commercial Credits*, Chap. III.

[10] The agreement reached at the July, 1929, meeting of the International Chamber of Commerce at Amsterdam declares that revocable credits may be canceled or modified at any time and without notice to the beneficiary. When, however, the credit has been given to a correspondent bank, changes are effective only upon receipt of notification by the correspondent or by the firm to which it has transferred the credit.

The revocable and unconfirmed type obviously is not worthy of the expression, letter of credit, which is thought of and generally conceded to be primarily for the purpose of providing a substantial guarantee of draft payment. Such guarantee is directly refused in this type of letter of credit by the words, following the insertion of the expiration date of the credit, "or unless sooner revoked." The lack of any assurance of payment to the beneficiary and the differing views as to the exercise of the right of revocation, have combined to place this document in disfavor. The Commercial Credit Conference in 1919 eliminated it from the forms of letters of credit which it sought to have adopted as standard, and although the recommendations of this conference were not widely accepted, the use of this document has been largely discontinued. To-day, reputable banks will not generally become a party to a revocable letter of credit.

A new form of authorizing payment in international trade has been devised, known as the *authority to pay.* By this instrument, the notifying bank merely advises the seller of the right to present, for payment or acceptance, drafts drawn on the notifying bank, "subject to revocation or modification at any time without notice to" the seller. There is no undertaking to honor drafts, on the part of either the issuing or the notifying bank; it "is simply for your guidance in preparing and presenting drafts and documents." Although not synonymous with a revocable letter of credit, which is valid until revoked, the authority to pay is much clearer in its meaning and removes any confusion with a legitimate letter of credit.

In the irrevocable and unconfirmed type of letter of credit, the undertaking is not revocable by the issuer (unless the consent of the beneficiary to revoke is obtained) but is not confirmed by the notifying bank. In this case, a binding responsibility is placed upon the issuing bank. In practice, an irrevocable credit is usually confirmed, however, and this brings us to the third combination; irrevocable and confirmed. In this document (the type generally understood as a legitimate letter of credit) there is a dual undertaking of two banks, the issuer agreeing not to cancel or modify the credit without the permission of the beneficiary, and the notifying bank confirming or guaranteeing the responsibility of the issuer. Although other forms are employed, a letter of credit is coming more generally to be



FORM B

THE NATIONAL CITY BANK OF NEW YORK
55 WALL STREET

IRREVOCABLE CREDIT NO.

NEW YORK

ALL DRAFTS DRAWN MUST BE MARKED:
DRAWN AS PER ADVICE NO. B

DEAR SIRS:

WE HEREBY AUTHORIZE YOU TO VALUE ON

FOR ACCOUNT OF

UP TO THE AGGREGATE AMOUNT OF

AVAILABLE BY YOUR DRAFTS AT FOR INVOICE COST

TO BE ACCOMPANIED BY CONSULAR INVOICE BILLS OF LADING

DRAWN TO THE ORDER OF

AND COMMERCIAL INVOICE EVIDENCING SHIPMENT OF

ORIGINAL

INSURANCE

BILLS OF LADING MUST BE DATED NOT LATER THAN

BILLS OF EXCHANGE MUST BE NEGOTIATED NOT LATER THAN

A COPY OF THE CONSULAR INVOICE, COMMERCIAL INVOICE, AND ONE BILL OF LADING MUST BE FORWARDED BY FIRST MAIL DIRECT TO

ATTACHING TO THE DRAFT A STATEMENT TO THAT EFFECT. ALL REMAINING DOCUMENTS MUST ACCOMPANY THE DRAFT.

THE AMOUNT OF ANY DRAFT DRAWN UNDER THIS CREDIT IS TO BE ENDORSED ON THE REVERSE SIDE HEREOF.

WE HEREBY AGREE WITH THE DRAWERS, ENDORSERS AND BONA FIDE HOLDERS OF DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT THAT THE SAME SHALL BE DULY HONORED ON DUE PRESENTATION TO THE DRAWEE.

YOURS VERY TRULY,

THE NATIONAL CITY BANK OF NEW YORK

FD 976—F8

FORM IV. IMPORT LETTER OF CREDIT (IRREVOCABLE) understood as an instrument which is both irrevocable and confirmed.

To resume the analysis of letters of credit according to types: when the payment authorized by a letter of credit is designated in funds of the country of the beneficiary, the credit is said to be in local currency. The converse of this is, clearly, foreign currency. Indications of currency are also made by actually naming the funds in which payment is authorized, as, for example, dollar credits or sterling credits. Furthermore, a letter of credit, although usually made for a fixed sum of money, may be renewable, and it is then known as a revolving letter of credit. Some of the ways in which this may operate are (*a*) the amount of the credit when exhausted may at once be available for further drawings; or (*b*) as soon as shipments and collateral drawings are made, utilizing a portion of the credit, the sum thus withdrawn may become again available, restoring the amount of the credit to the original sum; or (*c*) drawings may be limited to a stated sum for each period of time, as a month, during the life of the credit, and in case the sum authorized for drawing in any one month is not utilized entirely, the balance is made available for subsequent drawings. This is known as a *cumulative letter of credit.* (*d*) The amount of credit, when exhausted, may become available for further drawings only after the buyer or opener has retired his obligations in favor of the issuing bank. In any case, the total amount of credit available and the period of time for which the credit is granted are limited. Banks have adopted various methods of keeping a close check on the operation of revolving letters of credit, because of the possibility of dishonesty in connection therewith.

Finally, in authorizing the type of draft to be drawn under a letter of credit, the letter may be either for cash payment or for payment at a definite or ascertainable future date. Using the terminology employed in connection with bills of exchange, applicable also to letters of credit, there may be sight or acceptance credits, respectively.

Operation of a Letter of Credit Transaction.—To arrange the facts presented in a more definite manner and to observe additional features of the operation of a letter of credit transaction not already explained, an illustration will be drawn. It should be observed that the burden of arranging the plan falls upon the importer.

1. A commercial letter of credit (say sixty-day irrevocable confirmed) is mutually decided upon as the basis of providing payment for a bill of goods ordered by the importer, the price being quoted in the currency of the exporter's country.

2. The importer (opener) goes to a bank in his domicile to arrange the credit and he fills out a formal application. This application may be forwarded by the bank to a correspondent, in case the former has no foreign connection.

3. If the application is acted upon favorably, the *letter of credit contract* is signed and the bank becomes the prospective issuer. This contract protects the bank by guaranteeing payment of any sums expended by the bank under the credit, and security is required by the bank in accordance with the standing and reputation of the importer. The bank's problem varies in each individual case and it therefore exercises the same right of protection as it does in any loan contract.

4. The preliminary steps now having been completed, the credit is made available by drawing the (import) letter of credit in favor of the exporter (beneficiary). Being irrevocable it cannot be rescinded by the issuer without the consent of the beneficiary. The document may be sent directly to the beneficiary by the issuing bank, or, as is more frequently the case, it is forwarded by the opener. At the same time, an *advice of letter of credit* (export credit) is sent to the beneficiary through the correspondent bank of the issuer and it becomes the notifier. As the credit is to be confirmed, the notifier is instructed by the issuer to add its name to the obligation, guaranteeing the latter's undertaking. There is now available an irrevocable and confirmed letter of credit.

5. When the shipment is ready, and this is within the time limit fixed by the letter of credit, the beneficiary draws a draft at sixty days' sight on the issuing bank and presents it with the documents evidencing ownership of the merchandise to a bank for negotiation. The letter of credit may be "specially advised" and thus indicate the bank or banks which will honor the draft, otherwise the exporter is obliged to locate a bank that will discount it. The negotiating bank is required to check carefully all of the documents presented and to deter-

mine the authenticity of the credit. As the draft is drawn upon the issuing bank, the negotiator must look to it for reimbursement and any discrepancies in the documents may be grounds for refusal of payment on the part of the issuing bank. If the letter of credit is opened in a currency foreign to the beneficiary, it is customary to draw the draft on the foreign correspondent of the issuing bank and the correspondent is then known as the paying or accepting bank.

6. The documents are now sent, with draft attached, to the issuing bank for payment or acceptance, depending on whether the letter of credit is for cash or acceptance. In the case under consideration, an acceptance credit is employed.

7. The issuing bank now releases the goods to the importer, upon his signing a *trust receipt*. This document, widely used in the United States and Great Britain, is an acknowledgment by the importer that the ownership of the goods remains with the bank, possession only being transferred; and the disposal of the merchandise solely as specified in the trust receipt is guaranteed. Additional security is, therefore, provided the bank. In most foreign countries a document known as a *warrant* is employed in lieu of the trust receipt. This is in the nature of a duplicate warehouse receipt.

8. At the expiration of the sixty-day period following acceptance of the draft by the bank, the importer is required to make payment and the settlement of the account between the issuing and negotiating banks is a matter of banking procedure. Even though the importer should fail to meet his obligation, there would be no recourse upon the exporter, as long as either the issuing or the confirming bank honors the draft. In this respect, the credit is a virtual guarantee of payment.

Although the burden of financing is placed upon the buyer under a letter of credit transaction, there are certain attractions to him that should probably be mentioned. Perhaps the greatest practical benefit derived by the buyer lies in the protection given him in the setting of a definite date by which the seller is required to ship the order. The buyer accordingly may figure on prompt delivery, as the credit will expire on the date set unless an extension is procured, and rarely will an order for which the payment is guaranteed be allowed to slip away by reason of nonperformance. Moreover, the buyer probably receives rock-bottom prices without any additions when he submits a letter of credit, since contingencies are so fully guarded against that the seller finds it unnecessary to increase the price to cover them. Advance orders or orders running throughout a period of time are also well protected by reason of the expiration date of the letter of credit as well as by the limitation of the sum of money for which it is drawn. Finally, an attractive cash discount may be offered to importers for providing letter of credit payment.

AUTHORITY TO PURCHASE

Another document employed in international trade for the purpose of authorizing the payment of drafts drawn by exporters, is the authority to purchase (A/P). This instrument is in some respects similar to a letter of credit, but there are fundamental differences that should not be lost sight of. The authority to purchase is used extensively in connection with Oriental imports, chiefly Chinese. Its use came about by reason of the banking system in Oriental countries that made it difficult for merchants to obtain satisfactory bank credit with which to finance their purchases from abroad. The authority to purchase provides the basis for negotiating drafts drawn on an Oriental importer but it does not provide bank credit; rather, it provides a banking service.

The authority to purchase is an instrument addressed by an Oriental bank or branch of a foreign (American) bank, to its agent, correspondent, or head office (in the United States) authorizing the latter to negotiate drafts of a designated American exporter when presented in accordance with the terms specified. It is thus sent to a bank and not to the exporter. The A/P is opened at the instance of the importer who binds himself, by agreement and not usually by depositing security, to accept or pay the drafts drawn upon *him* and to reimburse the bank for all charges due it for services rendered. The drafts in the transaction are drawn on the importer and bank credit is, therefore, not involved.

There are forms of the A/P corresponding to the irrevocable and confirmed letter of credit, but when the latter type of bank credit is sought, a regular credit is being used. Not in any accepted sense of the meaning of a letter of credit can the A/P be construed. It is essentially a means of negotiating drafts on an importer—not a bank. Moreover, it is practically settled procedure to reserve recourse on the drawer of a draft under an A/P and this is never the case in an irrevocable letter of credit. Some confusion has existed because of the erroneous designation of the A/P method as an "Oriental letter of credit," the advice of A/P sent by the correspondent to the exporter having been considered as of the same nature as the advice of letter of credit, similarly employed. Indeed, just recently the head of a prominent export house remarked at a meeting of foreign traders that "they do give you not quite as good protection as a letter of credit, but still a very fair degree of protection." This may be true in some instances but cannot be accepted as general. The A/P provides no security or guarantee of payment of drafts drawn thereunder; but it does provide a market for bills drawn and in some cases this is a decided advantage. For practical use, authorities to purchase may be looked upon in much the same light as a favorable credit report.

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CHAPTER XXVII

FOREIGN CREDITS AND COLLECTIONS

Credit extension in foreign trade is no less necessary than in domestic business. In many ways it will be recognized that similar credit conditions exist in certain phases of the domestic trade of the United States, but it is readily demonstrable that a very singular set of circumstances obtain in international transactions. Some of the special reasons for credit extension in overseas business may be profitably examined.

The insufficient supply of banking capital in foreign countries is a credit factor peculiar to foreign trade. It is now an exploded theory that the mere establishment of a bank or a banking system will automatically create capital. The working capital of a country comes from the savings which are congregated into the banks and thence find their way into productive enterprises. The untold wealth that a country may possess in its mines, forests, wells, or fields, contributes little to the supply of working capital while it is still locked in natural treasure vaults. Products must be produced and sold in the world's marts in order to provide the means of procuring the goods of other nations. This condition of locked wealth exists in many of the undeveloped or developing areas of the world and there the supply of capital of a liquid or quickly usable nature is comparatively small. Moreover, production is conducted almost exclusively along agricultural, forestal, or mining lines and, particularly in the case of agriculture and of mining, there is a considerable period of waiting until returns are realized. Importers located in such areas have, therefore, depended upon the foreign sellers to finance their purchases, whether they be shoes, automobiles, locomotives, or municipal improvements. Local bankers are unable to provide the financing since the supply of capital flowing into their vaults is meager. An exporter of motor vehicles received an inquiry, followed by an order from a house of rather unknown standing located in one of the colonial markets of Africa. An exchange of correspondence followed which soon lengthened into many months, the exporter angling for an irrevocable letter of credit and the importer protesting the impossibility of securing such a document from his bank. The reason for the absence of local credit facilities would be partly explained by the lack of adequate bank funds.

When there is such a lack of balance between the demand for and the supply of readily usable capital, an immediate result is the raising of the interest rate. According, then, to this balance and, of course, the particular risks incurred, interest rates in non-industrial areas frequently are, as a minimum, 7 per cent per annum, and they may be as high as 15 and even 20 per cent per annum. It becomes apparent that good business dictates the wisdom of borrowing where interest is 6 per cent or lower (as it is in industrial countries) and lending the funds at home where interest is 7 per cent or more. In this connection, however, the question might well be raised as to whether or not this is a proper need for credit. There is admittedly a difference between need and desire, and whereas this factor is generally considered as one requiring the extension of credit, it is obviously the practical employment of sound business sense on the part of foreign buyers. In the competition for world markets, the seller is often forced to yield to this demand of the buyer.

Lack of developed business activity and organization is another factor entering into the foreign credit situation. There is often a dearth of diversified business or trade in undeveloped or developing areas of the world. Intensive specialization in commodity or functional lines is not warranted, and the business man frequently finds it necessary to combine several lines of activity in order to earn an adequate income. This imposes upon him a heavy financial responsibility, offering lucrative returns, perhaps, but at a slow rate of turnover. A further factor accentuating this condition is the lack of diversified production. There is a great dependence in many countries upon one or a few crops, as coffee in Brazil, nitrate in Chile, rubber in Malaysia, sugar in Cuba, and silk in Japan. This means that the bulk of national productive activity is engaged in one line with but few periods of harvest during the year. It is quite conceivable that a crop failure or a depreciated market may cause an economic collapse. Growers who largely comprise the buying public are, therefore, dependent for their livelihood not upon the returns from past efforts but upon anticipated earnings. In either case, these may be somewhat precarious. Not only is the grower placed in this condition of future dependence, but also the business men, the bankers, and every one else. The gulf between to-day's purchases and to-morrow's income must be bridged. The combination importer-exporter-wholesaler-banker-realtor cannot do it, as he is tied in the same mesh; the seller finds it necessary to do so in case he is interested in building up trade.

The delay incurred in receiving imported goods is another reason for the necessity of extending credit in foreign trade. Due to the length of time elapsing between the date of shipment by the exporter and the time the goods are received by the importer, there is often a considerable period during which, in the case of cash payment, the importer would be without both funds and goods. If credit is granted of sufficient duration as just to enable the importer to obtain the goods before making payment, it is apparent that the exporter is the party who bears the financial burden of the import transaction; but the sluggishness of turnover will often leave the goods on the hands of the buyer for a considerable additional period of time, during which his funds would also be tied up. This condition is of little significance in domestic trade where, in a few weeks, shipments may be made all over the country; but in foreign trade it presents an important problem. It may require two or three months after shipment before the importer on the plateau or up the river receives his merchandise. Moreover, he finds it necessary to pay the duties assessed against the goods before delivery and these duties are often quite high. If overland travel is necessary in order to reach the foreign destination, and if pack animals provide the only means of transportation, it is obvious that the time of transit is long and cannot be figured according to the distance or ease of the crow's flight.

Distance and time, moreover, compel importers to place orders for goods at a considerable period before the selling season opens and for substantial quantities, sufficient to last a good part of the entire season. In such cases a severe loss would be suffered in the event of any delay in receiving goods in time for the opening of the season for which they were ordered; and any delay occasioned in receiving repeat shipments subsequently ordered for the same season would likewise cause loss. Even though payment be arranged on the basis of sight drafts, the importer is bearing a financial burden for a considerable period, and because of the lack of liquid capital and business organization, it is often difficult for the importer to assume his share of the credit responsibility. The exporter therefore finds it necessary to be more liberal if he hopes to build up business.

Another reason for credit extension in foreign trade is the fluctuation in foreign exchange rates. Whenever a buyer receives quotations and accepts prices in a currency foreign to his own, he assumes a speculative risk, against which he may be able to protect himself.[1] If he has agreed to pay for his purchases by sight draft, the latest he can postpone payment and receive possession of the goods is upon their arrival. This gives him no time to await a favorable turn of the exchange, in case it is against him at the time the shipment arrives, and he may incur an exchange loss sufficiently great to eliminate his anticipated trade profit. Indeed, where the arrival of vessels is not an occurrence of great frequency in a foreign port, it is likely that exchange rates, due to the demands of importers at such time, will be higher when a vessel arrives and for several days thereafter. Importers, therefore, desire credit extensions that will enable them to take up their drafts at a time when exchange seems to them to be most favorable. This is most readily accomplished by arranging payment on a time sight draft. In some countries, where exchange was formerly quite sensitive, it was an established practice to allow a certain length of time after the arrival of the goods for settling exchange. Large importers in cities which trade with all the leading countries of the world would find a ready method of providing for exchange by carrying several bank accounts, each in a different currency. (1)

Credit may also be extended as a competitive weapon. As a means of promoting sales, especially in view of the intensity of competition in certain lines and in certain markets, liberal credit terms may be offered. This policy was followed by German exporters before the War to a much greater extent than 2) now. It is obvious that the granting of terms in excess of those which can safely and scientifically be considered invites financial ruin. In the introduction of a new article or of a new brand of an established product, however, somewhat unusual credit terms may be granted with reason. Such a policy possesses the same expediency as temporary dumping and may open a market that might otherwise be untapped. It is the contention of some that a liberal credit policy is advisable, and that losses, as there probably would be, should be charged off to advertising.

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[1] For discussion of methods of protecting against exchange risks, *see* Chapter XXX.

METHODS OF EXTENDING CREDIT IN FOREIGN TRADE

Credit is extended by the exporter to the importer in various ways, each of which is clearly indicated in the terms of payment granted. For purposes of analysis and comparison, methods of extending foreign credit may be classified broadly into documentary and nondocumentary (or clean). This subdivision is adopted for the purpose of showing the ultimate burden of credit extension. In the case of documentary credits, the exporter is usually able to sell or to obtain loans on his documents; while in nondocumentary credits, there are no papers to hypothecate or sell and the burden, therefore, falls upon the exporter's general financial standing. Only in the case of an irrevocable letter of credit arrangement, however, is the exporter relieved in either case of the ultimate risk of nonpayment on the part of the importer. From this grouping, the following classification may be made:

METHODS OF EXTENDING FOREIGN COMMERCIAL CREDITS

A. On a documentary basis
  1. Drafts
    (*a*) Sight Drafts, D/P
    (*b*) Time Drafts—date, sight, or arrival

  2. Letter of credit
    (*a*) Letter of credit
    (*b*) Authority to pay
    (*c*) Authority to purchase

B. On a nondocumentary (clean) basis
  1. Open account
  2. Current accounts

C. Special

Credit on a Documentary Basis.—In the preceding chapter, it was pointed out that drafts or bills of exchange, when drawn without any guarantee of payment, are subject to recourse on the maker (exporter). The risk is taken by the exporter on the chance that the buyer will not pay the draft when it falls due. The length of the credit is determined by the time required to obtain acceptance, plus the tenor of the draft in case of a time sight draft.

Terms which in domestic trade are called "C.O.D." are found in international commerce in sales under sight draft, D/P. The credit risk involved in this designation is the chance that the importer will not accept the goods and consequently not pay the draft. It is true that the goods are still in the possession of the exporter (or the bank) but unless a preliminary deposit has been obtained, the exporter stands to lose the expenses of packing and shipping. In addition, there is the question of disposal of the rejected merchandise, and if it is found to be advisable to return it or to send it to another market, or to accept a reduced price at a sacrifice sale, there is further loss.

Sales made under terms of time draft, whether sight, date, or arrival, incur the same element of risk as to possible refusal of the goods (and consequent failure to accept the draft) plus the risk of nonpayment at maturity. In such instances the merchandise has passed out of the control of the exporter and he stands to lose the entire value of the shipment in case the draft is not paid. By far the greatest amount of commercial credit granted in international commerce is by means of time drafts.

In the case of letters of credit, we have found that under the revocable form (authority to pay) the credit risk continues until the time that revocation can be no longer availed of. Then, as in the case of other types of letters of credit, the responsibility becomes that of the payee bank and the risk is practically eliminated.

The authority to purchase, being merely an arrangement for negotiating trade bills, embraces the same elements of credit as found in the case of drafts drawn on responsible customers. This is so because an authority can safely be considered as a favorable credit report.

Under an irrevocable letter of credit there is practically no credit risk. The negotiating bank's payment or acceptance of drafts drawn under the L/C enables the exporter to obtain ready cash and the only credit risk is in the solvency of the issuing and confirming banks. The credit burden laid upon the importer depends upon the arrangements he has been able to make with the issuing bank. If he is required to hypothecate collateral of some sort, he sustains the entire burden; if his standing with the bank is such as to enable him to open the credit with partial security or perhaps none at all, the bank shoulders an increasing share of the credit responsibility. In no case, under an irrevocable letter of credit, does the exporter carry any of the credit risk.

Credit on a Nondocumentary Basis—Special Methods.—When sales are made on an open account or an account current basis, a maximum of confidence is placed in the integrity of the buyer since he has not committed himself to any secured mode of payment. When it is remembered, however, that such terms, when employed, are usually granted only to concerns highly deserving of them, there is little likelihood that payment will be refused. The length of the credit is indicated by the terms of sale, and may be so many days from date of invoice or some other time indication. Reliance is placed either on the voluntary remittance of the customer, or on his prompt payment of a draft employed, by mutual arrangement, for the purpose of making collection.

In addition to the ordinary methods of extending credit already discussed, there are various special arrangements. In the case of large contract work for waterworks, port improvements, and similar public undertakings, credit may be obtained by means of a loan from bankers. This usually takes the form of long-term bonds or of short-term notes, the contractor receiving cash according to the schedule agreed upon. Similarly, if an exporter should accept bonds or other securities as a means of payment for goods sold, he may in a sense be considered as having extended credit—the ultimate responsibility perhaps being of a public nature. Credit has also been extended in times of financial stringency by the hypothecation of certain raw materials which the exporter sought to dispose of for the account of the purchaser, the funds realized being used toward compensating the exporter. Various combination methods of extending credit such as the making of partial payments at set intervals or the requiring of part cash, only the balance being retained on credit, are utilized, but these do not differ materially from the methods already discussed.

CREDIT DATA TO BE SOUGHT

In foreign, as in domestic credit work, it is desirable to extend credit where credit is due. The greater difficulty in ascertaining the foreign purchasers to whom credit is due is the peculiar problem of foreign credit work, as credit data are generally not so readily and authoritatively obtained as in domestic trade. The aim of all credit men is to keep losses at a minimum and, if humanly possible, to eliminate them altogether. To achieve this, the credit man obviously must be so informed as to make it a matter of business judgment rather than guesswork in approving credit. The search for credit information is continuous, as it is never possible to gather too much or too recent data. Even a report such as the following—and this is infrequent enough—cannot be taken alone and without corroboration from other sources:

"A report just received as of———tells us that the subject company may be safely relied upon for whatever business relations they may enter into."

There appears to be no limit to the information that may conceivably affect a credit risk. The foreign credit man is required to be informed as to financial, political, economic, social, and other current conditions all over the world. Such factors form the stage on which the data relating to the individual may act or react, and at times they overshadow the performance of the latter. How great is the credit risk on a concern that possesses a large capital and is thoroughly honest, but whose assets are lost in a bank failure, an insurrection, or in a disturbance of nature? At times, disturbing events occur in countries which exist on an entirely different economic and legal basis than our own and these may jeopardize, if not destroy, the standing of business men there. These general factors are limitless as regards number or type and they must be constantly observed by the foreign credit man as to their possible effect upon credit standings otherwise determined.

To analyze some of the more direct factors influencing the credit risk and accordingly as indicating the data which the foreign credit man is constantly on the alert to gather, we shall consider general and individual factors. General conditions exert a direct effect upon a particular credit risk but they are beyond the control of the party concerned; individual factors relate to the personal standing of the firm and are by far the more important.

Data Relating to the Individual.—The fundamental data relating to an individual's credit standing are embraced within the well-known triumvirate of credit work—character, capital, capacity. The significance of these factors is generally accepted as in the order given. Few business men, in foreign or domestic trade, would relegate character to any other than premier position in this line-up. The general feeling prevails that irrespective of the capital possessed, if the character of the firm is not satisfactory, the account is undesirable.

The organization and management of the concern is of prime importance in determining credit responsibility and it embraces both character and capacity. The years of continuity of business operation indicate the stability of a concern. A long-established house is not necessarily an honest one at any particular time; nor is the recently organized concern unreliable; but, generally speaking, the longer a business firm has been established, the greater is the confidence which it can command. With age goes stability, and if, in spite of successive waves of prosperity and depression, a house continues in business, it is a fair indication of its business ability, or capacity. This does not exempt such concerns from investigation, however, as such an enviable record might be broken at any time. With this continuity of operation comes also a sense of character. Character is not synonymous with reputation, but these credit factors cannot forever remain far apart. And a house with a reputation, firmly established, tested and tried and with every indication of continued maintenance of such a cherished possession, is certain to bear character.

It is not to be presumed, contrariwise, that a young business cannot be trusted. Every individual or organization finds it necessary to begin sometime and the small, recently established concern may possess qualities that, in twenty or fifty years will place it in the position now occupied by older houses. The burden is on the credit man, in the case of a new business, to obtain a greater amount of information and to observe greater caution than when approving credit for old, established concerns.

Although character is essential, credit cannot safely be granted to honest but careless or inexperienced customers. One of the most important matters for a merchant to handle intelligently is the maintenance of a proper balance between his commitments and his assets. It not only is unwise for a business man to overbuy, but it creates a definite strain on his credit standing, because his turnover will be slow, tying up part of his capital, and he runs chances of encountering unfavorable price or style changes before he disposes of his goods. The maintenance of such a balance was formerly considered to be the private affair of the customer, but after some experiences of strained credit and of losses resulting from unwise purchases, this matter will receive close attention by the credit department. In this respect, the opinion of the credit department and the sales force of an exporter may differ, since a customer may overbuy because he has been oversold by a star salesman and if so, the interests of the credit department have not been conserved.

By placing a limit on the credit to be extended safely, in the opinion of the credit man, to any one concern, a means of keeping a proper balance between purchases and assets is provided.

This limit may be indicated in a credit report, *e.g.:* "We do not recommend that credit in excess of $500.00 be granted." It is advisable to determine a limit on the basis of all the credit factors that relate to the individual. A possible formula is presented by Mr. Gordon C. Poole as follows:

> The working capital of the concern in question is multiplied by the estimated or known yearly turnover; the result is divided by the estimated number of sources from which purchases are made to determine the amount of yearly purchases which the concern is entitled to make from any single source; this result is divided by the yearly turnover to ascertain the amount of credit to which the concern is entitled from a single source of supply on a single transaction. For instance, let's assume that a concern has a working capital of $50,000; that the turnover is at the rate of four times yearly, and that, in consideration of the particular industry or trade in which it is engaged, it is reasonable to assume that the major portion of its

requirements are supplied from twenty sources. The annual buying capacity of the concern would be \$200,000 (\$50,000 × 4); its yearly requirements from one supplier, \$10,000 (\$200,000 ÷ 20); its credit limit on a single transaction from one source of supply \$2,500 (\$10,000 ÷ 4).[2]

Although such a computation may not be accurate, it serves as a basis upon which to determine credit limits and can be revised as additional information comes to light.

The financial condition and practices of the concern are of importance in determining credit standing. Unfortunately, financial statements are still uncommon in foreign trade, and the amount of liquid capital may be a difficult matter to ascertain. Almost all credit reports give the capital authorized or employed in a business but there is often no way of determining what liabilities are outstanding. A concern may possess cash of \$50,000.00, real estate of \$30,000.00 and merchandise, accounts receivable, etc., of \$80,000.00, but there may exist commitments, actual or potential, which will exhaust all of these. Claims as to capital cannot, therefore, be accepted without closer investigation. In this connection the significance of character is readily seen, as a business house with a high reputation would not be likely to conceal pertinent facts even though they might indicate a poor financial condition. There is also to be noted the reticence on the part of many foreign business men to supply data relative to their financial standing. It is still unfortunately true that many business concerns construe requests for financial data as reflections on their standing and integrity. Until the full significance of the financial statement in business is grasped, this attitude is bound to persist. The policy of jealously guarding personal information is happily giving way to the modern idea practiced in this country and some others.

The financial practices of a customer would show his paying methods and his general ability to adopt and conduct a proper financial program. Investigation will usually show whether a concern is prompt or slow in payment or whether it is given to requests for extensions or other special favors. An account that has never been known to default, but which is careless in meeting obligations at maturity, can hardly be considered a prime risk. Excessive data on the financial status of a customer cannot be obtained, as it is to be expected that a good credit risk is able efficiently to manage its financial affairs and keep commitments covered with practically assured income.

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[2] G. C. Poole, *Export Credits and Collection* (Prentice-Hall, 1923), pp. 28, 29.

The nationality of the concern is considered by all credit men because of the importance of racial and national characteristics, as they relate to moral fiber, customs, background, and philosophy, all of which influence the credit risk. It is obvious that no one race or nationality is 100 per cent honest or dishonest but certain tendencies may be anticipated because of the accident of birth. If a foreign customer should look on a contract as a means of protecting the buyer alone, we gain nothing by arguing the relative merits and demerits, justice or injustice of the divergent points of view, but we are face to face with a potential loss under certain circumstances. Shrewdness is characteristic of some people as a group and when shrewdness and trickery become entangled, losses again appear on the horizon. Such circumstances are far from conclusive and may be entirely erroneous; but when they are encountered it may be advisable to presume their existence and exert efforts to prove or disprove them.

The profit, both the exporter's and the importer's, has an effect upon the question of credits. In case the seller is operating on a low margin of profit, it may be advisable for him to restrict credit terms as much as possible; and if the margin is high, he can afford to be more liberal. Not only is this true because of the risks involved but the financial strain may also be greater when profits are small. Trade profits also influence the credit risk on the side of the importer. If he has not had the foresight or knowledge properly to figure the laid-down costs to him of goods quoted on terms of, say, f.o.b. vessel, New York, he may find that the cost to him compared with the market price he can command would eliminate his profit or even entail a loss. Even if alert, a loss may be incurred in case of a sudden decline in the market. The credit man should look into the lucrativeness of the business to the buyer, because of the obvious connection this bears to the credit risk.

Data Relating to General Conditions.—Credit considerations are influenced by the product that is sold. This question is really a sales and not a credit problem, but the sales force in their zealousness may overlook the relationship. The importance of the product is to the market the same as buying in proportion to requirements is to the customer, and it may be viewed from two angles: (*a*) will the product take? and (*b*) can the market absorb?

The first query refers especially to new articles or new brands just entering the market. At such time, when credit extension may be necessary for market reasons, a decided risk is encountered in the unknown reception to be accorded the product. If it does not "take," the effect on credits can be readily deemed to be unfavorable. Even if an article should "take," however, there is a limit to the absorption power of a market and although the importer probably considers this question carefully, the export sales force may, by zealous persistence, ignore it. It is, therefore, necessary for the credit man to consider the sales possibility of the product in view of the apparent effect upon credits. Overstocking, as a result of market, not individual, conditions may ensue and credits may become "frozen" with unavoidable losses. The capacity of a market may be overestimated by the sales force but such should never be the case with the credit man. A further influence exerted by the product is the possibility of disposing of refused goods at a reasonable price. Staple products are more readily sold in an open market than are specialties and the probable loss occasioned in the forced sale of staple lines is not great.

Foreign exchange fluctuations may be considered as a factor influencing the credit risk. In case of unfavorable exchange movements, importers may submit requests for extension, and there is a further possibility of refusal of payment. In countries where the currency is subject to erratic or seasonable changes, however, this factor may be partly anticipated and its effect upon credit risks considered.

Credit terms are also influenced by the credit customs of the foreign market. Certain terms are often established in each market along commodity lines and they are to be recognized by exporters to those markets.[3] Any influence which custom exerts may also be observed in the discussion on comparative United States and foreign credit terms, to be presented shortly.

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[3] *See* series of studies entitled "Credit and Payment Terms," conducted and published by Commercial Intelligence Division, Bureau of Foreign and Domestic Commerce. These set forth the usual terms in various trades in the world markets.

The Credit Decision.—Passing upon an individual credit risk is the exercise of sound business judgment guided by the data assembled and influenced by factors of a broad general nature. It goes without saying that the foreign credit man can rarely be satisfied with the data he has assembled, either as to specific data published in reports or as to more general information stored up in his memory. The lack of adequate specific data, in any instance, places a heavier burden upon the general factors and common sense.

In making a credit decision, it might be well to indicate the place of three "C's" which are complementary to those already discussed in connection with credit data. These "C's" are Care, Confidence, and Courage.[4] The first is always essential and is presupposed; the second provides optimism in the face of otherwise depressing conditions; the third supplies the stamina to cast the die and stand by the decision until the collection is made.

Care
[illegible]
[illegible]

In spite of the difficulties involved in foreign credit work, it is generally asserted that many of the apparently insurmountable obstacles are, upon close examination, found to be only transitory. In domestic trade, the credit man cannot always approve a credit with the assurance that the account will be paid. In foreign work this is more often the case due to less complete data, but in both instances the credit man is called upon to exercise a certain amount of common sense based upon opinions and general information.

FOREIGN CREDIT POLICY AND MANAGEMENT

It is rather a time-honored criticism of American exporters that they are unwilling to grant the liberal credits in foreign trade that are offered by European competitors. If it be true that legitimate credit extension is predicated upon adequate information, then the general absence before the War, of foreign credit data in the United States may be cited as one reason for the failure of American exporters to extend liberal credit at that time. European countries, particularly Great Britain, with an early start in overseas business, promptly developed the means of extending foreign credit. This was accomplished not only through sources of information but also by the creation of a banking system which would advance cash on trade documents. Until 1913, this facility was not generally available to American exporters and this condition certainly did not encourage them to extend credit, when it meant a personally sustained burden. Moreover, the United States was very active until the twentieth century and was still fairly busy up to 1914 in developing her own resources and domestic business. Export trade was actively solicited only by exceptional concerns that at that time saw a limit to their domestic market. Export commission houses and merchants handled most of the business; and these, together with the manufacturers that were engaged directly in foreign trade, granted credit in many instances. The manufacturers who took business as it came and without solicitation rarely granted credit as they were not forced to do so by competition.

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[4] Address by A. T. Richards, in *Proceedings, Ninth National Foreign Trade Convention,* 1922, p. 504.

With the development of our interest in foreign trade, together with the growth of sources of information and changes in banking methods, there is no longer any handicap on the part of American exporters in the matter of extending foreign credit. Perhaps it is true that Americans do not grant as liberal terms as do European competitors, and if such is the case, the answer would seem to be that they do not find it necessary to grant long credit, because America's overseas business is annually comparable with, if not in excess of, the foreign trade of the United Kingdom. It should be remembered that for certain reasons credit is essential to, and for certain other reasons it is desired by foreign customers, and it is unlikely that sellers of merchandise will meet any more than the first group of circumstances unless they are obliged to do so for competitive reasons.

Study of Comparative Terms in Foreign Markets.—An instructive survey of the problem of national credit policy was undertaken by Mr. W. S. Swingle, Manager, Foreign Department, National Association of Credit Men.[5] Mr. Swingle gathered data covering sixteen different trade or commodity groups and nine countries of Latin America (Cuba, Mexico, Colombia, Brazil, Argentina, Peru, Porto Rico, Venezuela, and Costa

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[5] Presented as a compilation and address in two parts, being delivered at the 1926 and 1927 Annual Conventions of the National Association of Credit Men.

Rica), Japan, Australia, Canada, Great Britain, and India. The survey was conducted by means of questionnaires sent to several hundred members of the Foreign Credit Interchange Bureau and covered the terms (*a*) requested by buyers, (*b*) granted by foreign competitors, and (*c*) granted by American concerns.

One surprising feature, as shown by the results of the survey, is the general adherence of foreign exporters to the terms reported as having been requested by importers. This indicates the adherence to well-established credit terms in commodity groups and the influence of specific conditions in different markets. On further consideration it would appear logical that years of trading would draw the credit terms asked and received to something like a comparable level. In some cases the terms granted were found to be even longer than expected by the buyers.

As to the competition between the United States and foreign suppliers as evidenced by the terms usually granted by each, it is quite apparent that foreign exporters offer more favorable credit in many instances than do American exporters. In Canada and Great Britain, terms appear to be on an equality with possibly an advantage being in favor of American manufacturers, by reason of the large amount of business transacted through branches maintained in these countries. In Porto Rico there was a balancing of credit advantages, the liberality of United States shippers in some lines offsetting that of foreign competitors in others. Less equality appeared in the case of Mexico, where the credit advantage of the foreign exporters outweighed four to two the greater liberality of American terms. In Brazil this score was increased to something like four to one. In these last two countries, general equality in terms was found in approximately ten lines.

In all other countries for which conclusions could be drawn, it was shown that foreign competitors grant more favorable terms than do Americans on an average of one-third the number of lines studied, these markets being Peru, Costa Rica, Argentina, Colombia, Cuba, India, and Venezuela. The advantage usually amounted to thirty days.

As to commodity groups, it was found that in hardware, electrical supplies, household goods, and general merchandise, and especially in machinery lines, foreign concerns were particularly liberal in credit extension as compared with American exporters. Comparative equality in terms granted was found in textiles and wearing apparel, plumbing supplies, food products, paints and varnishes, furniture, and shoes and leather. Taking everything into consideration, it is clear that *Americans are extending credit* even though it may not be quite as liberal as other foreigners are offering in some markets. There may be many reasons to account for this difference but Americans can no longer be justly accused of failure to grant foreign credits.

International competition before the War may have been, to a large extent, on the basis of credit extensions. The same idea appears to be somewhat prevalent to-day, but it seems certain that terms are, generally speaking, not far apart in present-day competition. Referring to Latin American trade, one exporter replied in part to Mr. Swingle's questionnaire: "There has been much said about extended credits offered by foreign competitors and I have taken great care to investigate this matter. European competitors in our industry (machinery) are making tremendous efforts and are offering goods at very low prices but they do not grant long terms of credit. The foreign buyer, who used to look more to the terms of credit than at the price, now very carefully inquires of the price at which the goods will be sold, and then asks about the terms of payment."[6]

Individual Credit Policy.—The adoption of a definite policy regarding the extension of credit is as logical and essential as the creation of a sales or any other business policy. In the work of approving credit risks, it is wise to reduce motion to the minimum by providing automatic approval of reliable houses and the careful analysis of the factors determining all other risks. This policy may be worked out by means of a credit file, on which would appear, for each customer, the limit of credit which can safely and automatically be extended in view of the data received to date; or by the adoption of standard terms of sale for all customers and placing upon them the responsibility of submitting information intended to support more favorable terms. The second method is preferred by some exporters because it places upon the buyer the burden of establishing his credit rating, and is likely to avoid exchanges of correspondence or cables in dickering over credit terms. The writer witnessed such a procedure, extending from December 23, 1925, to July 14, 1927, with the matter finally being dropped with no agreement having been reached. Perhaps the greatest advantage of this plan is the means thereby provided of serving notice on the Sales Department that terms will be granted only for the standard period of time stipulated. This tends to create in the sales force an interest in credit and collection work. The salesmen, knowing the automatic limitations thus set, would endeavor to assist the importer in establishing the right to more favorable terms.

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[6] 1927 Annual Convention, National Association of Credit Men, p. 3.

The establishment of standard terms is a matter of business policy and calls for consideration on the part of the executives. Moreover, coöperation among the various departments of a business concern for the mutual promotion of its interests is a keynote of modern commercial organization. Nowhere is this of more decided importance than in the case of the export business which, for many reasons, has long been considered a separate and distinct part of the activities of a concern. This is rapidly breaking down and with it comes the realization of the interdependence of all departments. One concern provides this executive control and departmental coöperation in the matter of credits through its export committee, composed of a vice president (director of exports), export manager, advertising manager, treasurer, and a trade manager.

It is not to be assumed that under a plan such as this there is no need for a foreign credit department. Any fairly large exporting concern finds a foreign credit department essential, the size of the department depending upon the demands of the business. There may and should be a Foreign Credit Manager whose qualifications may readily be ascertained from the functions which the department is called upon to perform. These may be briefly summarized, *viz.:* (1) investigation of and passing on credit risks, involving the assembly and filing of credit data and deciding the action to be taken in the case of each risk. If executive control is firmly established, the department may advise on matters of unusual concern; (2) collection work, keeping after customers and building respect and good-will; and (3) coöperation with other departments as found necessary. For example, in the appointment of agents abroad, the credit department would collect for the use of the sales department all of the information available on prospective representatives, and it would work with the treasurer on all financial matters connected with foreign trade. Irrespective of the elaborateness of a foreign credit organization, it is obvious that a personnel capable of performing these functions is indispensable.

MAKING FOREIGN COLLECTIONS

It is one thing to decide upon a policy to be employed in judging and granting credits but it is quite another matter to determine the most advisable course to be pursued in case of failure to make payment when it falls due. The collection policy begins as soon as negotiations with a customer have been completed. Tact is essential and collection letters of the type here considered should be written only by persons eminently fitted in this respect. In the acknowledgment of the order, the terms under which the sale is made are repeated and the assurance expressed that the customer will meet the obligation he assumes. Such a tone of confidence, if aptly and tactfully employed in all correspondence, is a long step toward insuring collections. As the due date of the draft or the account approaches, the customer may be notified and the assurance may be expressed that he will meet his obligation.

If payment is not made when due, prompt steps are to be taken. In case of draft transactions in which payment was not received within the time estimated, the bank is requested to ascertain the reason. Failure to make payment may be due to one of several reasons, and it is essential to know the status of a particular case before adopting a definite plan of action. The buyer may, for example, have fair or unfair claims against the exporter and for this reason fail to make payment. The assumption is, in such cases, that after a reasonable adjustment has been made, the account will be paid. A thorough investigation is advisable in order to determine, if possible, the legitimacy of a claim and to place the responsibility. If the buyer is merely seeking to evade payment or is taking advantage of some technicality in his favor, the exporter may be forced to take steps to protect himself. Legitimate claims are, however, the general rule and if correspondence should prove unavailing, some form of arbitration and compromise is highly advisable for making settlement.

Financial embarrassment is quite obviously a reason for failure to make payment, and here the collection policy, at least at the beginning, should be sympathetic and patient. Trying to rush such a case may cause entire loss, while friendly extensions and coöperation will probably secure the payment, and, if not, will retain a customer. It required many years to settle all of the accounts which were outstanding and unpaid, as a result of the depression of 1920-21 and quite frequently it was impossible to realize 100 per cent on them. Such losses were at least partly compensated by the retention of good-will on the part of those exporters who took the long-range view of the situation and helped their stranded clients back on their feet again. Extended financial embarrassment may finally result in insolvency. If this should be the case, the fortunate creditor is the one who insisted on and received his payment. Impending insolvency, however, can usually be discerned from up-to-date credit reports and in such cases, the collection policy will aim to obtain funds before the crash comes. When insolvency occurs it is highly desirable to place the case in the hands of a capable lawyer, or to instruct the bank to take the necessary steps or in other ways seek legal recourse. Laws relating to bankruptcy vary so widely that the greatest care is essential.[7]

The exporter is not left entirely to his own resources in the matter of collections. The United States Government, through the Consular Service and the Commerce Department, while not offering a collection service, will call upon delinquent foreign debtors and ascertain the status of the case. If the exporter is a member of the Foreign Credit Interchange Bureau of the National Association of Credit Men, he may avail himself of the "moral suasion service" offered by the Bureau. Letters are sent to delinquent customers and while a collection service is not provided, settlements are obtained which could probably not have been otherwise made. Foreign collections are undertaken by some collection agencies and by organizations such as the National Association of Manufacturers and the Philadelphia Commercial Museum. Banks may press claims for payment, foreign branches of American banks being especially valuable in this connection. In draft transactions, the bank located abroad will, if so instructed, enter official protest in case of non-payment of a draft, this step being often necessary to support subsequent court action.

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[7] *See* Chapter XXXIII.

Legal action may provide the necessary collection power, but, as is generally conceded, only as a last resort. As a widely accepted policy, it is advisable to avoid litigation in foreign courts unless the amount involved is sufficiently large clearly to warrant this procedure. There are many objections to lawsuits in foreign trade, among the most significant being the delay and expense incurred, possible loop-holes in foreign laws favorable to the delinquent, possible disastrous reaction to the exporter because of patriotic feelings abroad, possible political immunity of the defaulter, and general feelings of misgiving on the part of the exporter.

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CHAPTER XXVIII

SOURCES OF FOREIGN CREDIT INFORMATION

The foreign credit facilities of the United States have been expanded greatly since the War growth in our foreign trade and there is to-day no lack of sources for obtaining credit data. It does not follow, however, that comprehensive information on every risk may be acquired from any or all of these sources. The function of the credit man is to unearth every scrap of data that can be located and to do this he is required to be informed as to all available sources. In the discussion to follow, the sources of foreign credit information will be classified primarily according to the type of credit data supplied by them.

Reports of Credit Organizations.—In this group are those concerns whose sole activity consists of gathering and disseminating credit information, either for the general public or for members only. First in this group come the two well-known American mercantile credit agencies, R. G. Dun and Company and the Bradstreet Company.

R. G. Dun and Company was the first organization of its kind to be established anywhere in the world dating from 1841, and the Bradstreet Company commenced operations eight years later. The same methods of gathering data through branches and agencies as have proven successful in domestic trade have been applied in the foreign markets. R. G. Dun and Company has branches operating throughout the entire commercial world and "correspondents in probably every community of any commercial importance."

The Bradstreet Company has 78 branches outside of the United States, some of which are operated by companies affiliated or allied with Bradstreet's. It also employs correspondents all over the world. These overseas offices gather reports on new risks and amendments to existing reports and forward them to the New York offices where voluminous files are maintained.

In the gathering of data, the reporters for these agencies are handicapped, as are all others seeking foreign credit information, by the unwillingness of many foreign business men to provide the necessary information. The reports are as factual as possible and they also contain opinions obtained from the trading community. The companies are gradually overcoming this prejudice by means of correspondence and personal calls, showing business men that it is decidedly to their advantage to provide the information solicited. Special credit investigations are conducted by these agencies upon payment of an extra fee. These are particularly to be recommended in case any possible doubt exists as to the current standing of an account. This does not mean, however, that mercantile credit reports are antiquated and, if the file reports are entirely out of date, information will be obtained without extra charge in order to render the report of current value.

Mercantile credit agencies patterned after the American companies are also operating in some foreign countries. Generally speaking, however, it is easier, more expeditious and quite as satisfactory to confine attention to Dun's and Bradstreet's here in the United States.

The Foreign Department of the National Credit Office was organized shortly after the War at the direct request of the textile industry in the United States. This department keeps in touch with the changing credit position of dealers who purchase American textiles and are located in South America, Central America, Mexico, and the West Indies. The reports of this organization are available to members only and they are compiled from both foreign and American sources. Direct foreign representatives are maintained, financial statements are solicited semiannually from foreign business houses and local banking institutions are requested to provide credit data. In the United States, investigations are conducted in connection with banks that are engaged in foreign business and are members of the Foreign Department of the National Credit Office; and reinvestigations are carried out periodically in American trade circles. Moreover, a continuous service is provided whereby a member receives reports and notices concerning any foreign firm from which he has obtained an order, for a period of one year following the origin of the transaction. No additional charge is made for this follow-up service and an automatic means of securing current data is thus provided.

Reports of Credit Bureaus.—Organizations that are engaged in the general promotion of foreign trade provide export credit service and while their activities are not confined solely to this work, one of their principal activities consists of acquiring and maintaining comprehensive credit files.

The Foreign Trade Bureau of the Philadelphia Commercial Museum issues credit reports based on information received from correspondents, agents, banks, business houses and trade promotion organizations all over the world. These reports may be purchased by any one upon payment of the established fee but they are more particularly for the use of those who have subscribed for the service of the bureau. For example, advertisers in the monthly publication *Commercial America* receive credit reports varying in number according to the amount of the contract.

The Credits Division of the Foreign Trade Bureau of the National Association of Manufacturers furnishes credit reports that are procured through a corps of competent correspondents. Members are entitled to one report annually free of charge; additional reports are provided at the rate of three dollars each, with a scale of discounts depending upon the number of reports purchased.

The American Manufacturers' Export Association does not gather credit information as a general policy, as they feel that existing sources are adequate to meet general demands. Nevertheless, at the request of members they have designed a "Special Credit Report." This is intended to be more complete than reports that are elsewhere obtained and "it contains the necessary details of the business inquired about and at least three reports, one bank and two commercial, from entirely unconnected sources."[1]

Reports of Banks.—In response to the awakened foreign trade interest in the United States, many American banks, particularly, although not exclusively those located on the seaboard, have established foreign departments, and some of them maintain branches abroad. One of the functions quickly adopted and rapidly developed was the gathering of credit information for the use of the bank's clients.

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[1] Circular of the American Manufacturers' Export Association, submitted on Aug. 27, 1927.

The bank credit report may safely be regarded as one of the most authoritative sources of foreign credit information. It is not invariably complete, but the proverbial conservativeness of the banker has attached to it an element of reliability. Criticism of typical bank credit reports has been voiced, however.[2] Besides assailing the brevity and formality of bank reports, it is claimed that they contain only a small element of trade opinion or commercial investigation. It is asserted that the banker's individual opinion resulting from his own experience is expressed but that statement, though good as far as it goes, lacks the perspective and balance of all factors that should enter into the credit study.

If a bank does not operate foreign branches, it is dependent upon its correspondents and affiliations for credit data. These connections may not always provide the same quality of information as generally comes with a report made by a foreign branch of the bank, but there is always behind it that sense of dependability that bankers engender.

It is quite customary among banks freely to exchange foreign credit information, but rarely do banks disseminate reports to business houses other than their own clients. Banks located at interior points are thus in a position to secure credit data for their clients just as though they were operating in the large foreign trade centers on the seaboard.

Some foreign banks have offices in the United States and they may be looked upon as an important banking source of credit information. Foreign banks with no such organization in the United States are not so favorably viewed in the quest for credit data. It is quite likely that they have already been approached for credit data on a particular client and that such information has been transmitted to an American correspondent; but in case they have not, it is improbable that they will supply the information to a trade inquirer. The British system of providing credit information only at the request of a bank is followed by British and British colonial institutions all over the world and by banks in many other foreign countries.

Moreover, credit data obtained through foreign banking channels may fail to contain concrete data, and may be biased. Native banks may shield a good customer by refusing to divulge credit data unfavorable to him. These conditions are undoubtedly not the rule, but they are to be borne in mind when employing foreign bank credit reports.

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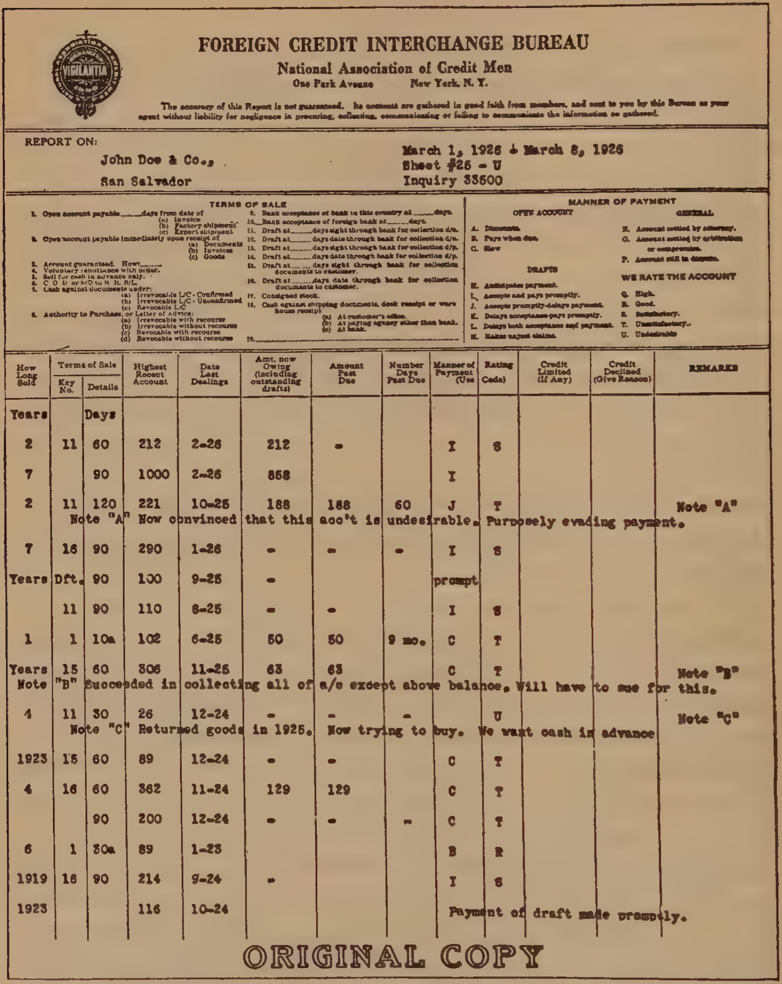
[2] A. J. Wolfe, "Credit Information as Supplied by Banks," *Export Trade and Finance,* Vol. XVII, No. 17 (July 9, 1927), p. 7.

Interchange of Ledger Experience.—The interchange of ledger experience has become a valuable source of credit information during recent years. Perhaps the failure to tap this source of credit data at an earlier date was due to jealousy and resentment with respect to the divulging of any confidential information whatever to a competitor or even noncompetitor in business. With the coming of a broadened viewpoint and a feeling of national solidarity in our foreign trade achievements, this attitude has been largely displaced. If, for example, an importer of general merchandise, hardware, house furnishings, agricultural implements, etc., has been purchasing half of his requirements from eight American manufacturers, the value of an exchange of opinion on the standing and reputation of the importer as experienced by each can readily be seen. A drawback to this method is, of course, the possibility that only those suppliers who have either favorable or unfavorable experience may get together, or that the importer may buy the greater part of his stock from non-American sources.

Informal interchange of credit experience has become more common with the establishment of American goods in export markets. More American concerns are in touch with foreign buyers and with a consequent growth of business, a large fund of ledger experience has rapidly developed. Importers abroad are able to give the names of an increasing number of American references. By communicating with these and offering to reciprocate the favor, informal interchange has developed. Some exporters send printed forms on which the credit data is to be filled in as requested and in this way a uniformity of the credit data on hand is maintained and all essential features are covered in the inquiry. Although references are ‘‘hand-picked,’’ this fact should not nullify the value of information provided by American references.

A more organized but still informal mode of interchange occurs at the periodical gathering of export men, especially around the luncheon table. Here a free conversation readily flows and experiences are related. Such organizations as the Export Managers Club of New York, Inc., the Boston Export Round Table, and others bring together export executives at stated intervals.



FOREIGN CREDIT INTERCHANGE BUREAU

National Association of Credit Men
One Park Avenue New York, N. Y.

The accuracy of this Report is not guaranteed. Its contents are gathered in good faith from members, and sent to you by this Bureau as your agent without liability for negligence in procuring, collecting, communicating or failing to communicate the information so gathered.

REPORT ON:
John Doe & Co.,
San Salvador

March 1, 1926 ↓ March 8, 1926
Sheet #26 - U
Inquiry 33600

TERMS OF SALE

1. Open account payable......days from date of
   - (a) Invoice
   - (b) Factory shipment
   - (c) Export shipment
2. Open account payable immediately upon receipt of
   - (a) Documents
   - (b) Invoices
   - (c) Goods
3. Account guaranteed. How?........
4. Voluntary remittance with order.
5. Sell for cash in advance only.
6. C O D or S/D to R R. B/L.
7. Cash against documents under:
   - (a) Irrevocable L/C - Confirmed
   - (b) Irrevocable L/C - Unconfirmed
   - (c) Revocable L/C
8. Authority to Purchase, or Letter of Advice:
   - (a) Irrevocable with recourse
   - (b) Irrevocable without recourse
   - (c) Revocable with recourse
   - (d) Revocable without recourse
9. Bank acceptance of bank in this country at........days.
10. Bank acceptance of foreign bank at........days.
11. Draft at........days sight through bank for collection d/a.
12. Draft at........days date through bank for collection d/a.
13. Draft at........days sight through bank for collection d/p.
14. Draft at........days date through bank for collection d/p.
15. Draft at........days sight through bank for collection documents to customer.
16. Draft at........days date through bank for collection documents to customer.
17. Consigned stock.
18. Cash against shipping documents, dock receipt or ware house receipt
    - (a) At customer's office.
    - (b) At paying agency other than bank.
    - (c) At bank.
19. ....

MANNER OF PAYMENT

OPEN ACCOUNT

A. Discounts.
B. Pays when due.
C. Slow

DRAFTS

H. Anticipates payment.
I. Accepts and pays promptly.
J. Accepts promptly-delays payment.
K. Delays acceptance-pays promptly.
L. Delays both acceptance and payment.
M. Makes unjust claims.

GENERAL

N. Account settled by attorney.
O. Account settled by arbitration or compromise.
P. Account still in dispute.

WE RATE THE ACCOUNT

Q. High.
R. Good.
S. Satisfactory.
T. Unsatisfactory.
U. Undesirable

How Long Sold	Terms of Sale		Highest Recent Account	Date Last Dealings	Amt. now Owing (including outstanding drafts)	Amount Past Due	Number Days Past Due	Manner of Payment (Use	Rating Code)	Credit Limited (If Any)	Credit Declined (Give Reason)	REMARKS
	Key No.	Details										
Years		Days										
2	11	60	212	2-26	212	-		I	S			
7		90	1000	2-26	858			I				
2	11	120	221	10-25	188	188	60	J	T			Note "A"
	Note "A" Now convinced that this acc't is undesirable. Purposely evading payment.											
7	16	90	290	1-26	-	-	-	I	S			
Years	Dft.	90	100	9-25	-			prompt				
	11	90	110	8-25	-	-		I	S			
1	1	10a	102	6-25	50	50	9 mo.	C	T			
Years	15	60	306	11-25	63	63		C	T			Note "B"
Note "B" Succeeded in collecting all of a/c except above balance. Will have to sue for this.												
4	11	30	26	12-24	-	-	-		U			Note "C"
	Note "C" Returned goods in 1925. Now trying to buy. We want cash in advance											
1923	15	60	89	12-24	-	-		C	T			
4	16	60	362	11-24	129	129		C	T			
		90	200	12-24	-	-	-	C	T			
6	1	30a	89	1-23				B	R			
1919	16	90	214	9-24	-			I	S			
1923			116	10-24				Payment of draft made promptly.				

ORIGINAL COPY

FORM V. CREDIT REPORT OF FOREIGN CREDIT INTERCHANGE BUREAU

More formal interchange of credit information and experience has been organized and has developed steadily. The American Manufacturer's Foreign Credit Underwriters, Inc., requires all members to provide, as requested, such credit data as they may possess relating to foreign houses. From this source, the company procures much of the information on which it bases the ratings of foreign business men for the purpose of writing foreign credit insurance.

The incorporation of the interchange of experience into a fully organized scheme as a sole method of operation is the plan of the Foreign Credit Interchange Bureau of the National Association of Credit Men. It is a nonprofit, coöperative bureau, membership in which is confined to members of the National Association of Credit Men upon payment of an initiation fee and the annual dues. It is supervised by an executive committee composed of its own members. The reciprocal nature of this interchange is revealed in the terms of the agreement with its members, reading in part as follows: The Subscriber agrees "to furnish to the Bureau a complete list of the names and addresses of foreign concerns, including Canada, and domestic export commission houses in whom interested, and supply names of new or additional accounts in any manner most convenient; to furnish promptly a full and exact statement of business experience in accordance with details indicated on the form of inquiry received from the Bureau, and to substantiate, if requested, experience so contributed." The Bureau agrees "to furnish up to one hundred original reports, supplementary reports whenever obtainable, reciprocal copy of all reports upon which the member contributes experiences. . . ."

All information relating to lists of customers or to the identity of each member is considered as strictly confidential. The Bureau has data on more than 300,000 foreign concerns and the information is kept constantly up-to-date by the addition of new experiences of old suppliers or by the addition of entirely new references.

The American Exporters' and Importers' Association also conducts a credit interchange service for the benefit of its members. When a foreign firm is inquired about, the name is sent to all members trading in the country where it is located, the assumption being that some or all of the members will have had some experience with the concern in question. This, of course, is not always the case. The data are then assembled and submitted to the inquirer, the names of the suppliers being withheld. The American Exporters' and Importers' Association also warns of accounts that, according to current information received, are considered to be risky. If one of the members or his agents should submit a report that would indicate a weakening of the credit of a foreign business house, the news is transmitted at once to all members that trade with the particular house and concerted action is taken in all further dealings.

While there are undoubtedly certain shortcomings in the interchange of ledger experience, it is an accepted fact that the plan constitutes one of the principal sources of foreign credit information in the United States. In this respect, American exporters possess an advantage over their competitors in foreign countries where the practice of interchanging ledger experience does not prevail. This source is distinctly American.

Trade Contacts.—Trade contacts, when available, provide another means of obtaining credit information. Trade contacts include all sources that have had an opportunity of studying a business house at first hand by contact or experience abroad. They embrace not only trade references but also branch house managers, salesmen, and agents that represent the exporter in foreign markets. When branches are maintained, a valuable source of credit information is available. Indeed, one of the principal advantages of foreign branches consists of the close supervision they may exercise over customer credits and a considerable degree of credit control may be transferred to the foreign branch. The export salesman also has the opportunity of studying a credit risk at close range. Formerly, when the salesman's function was thought to be only selling, he was not considered as an important credit reporter. With the broadening of the responsibilities of the salesman has come his duty to procure at first hand all data available on the customers to whom he sells. Many exporting concerns have prepared blank reports to be filled out by salesmen for all new and even old accounts. For each client the salesman thus becomes a credit reporter and in his position of confidence and contact he can readily become a valuable one.

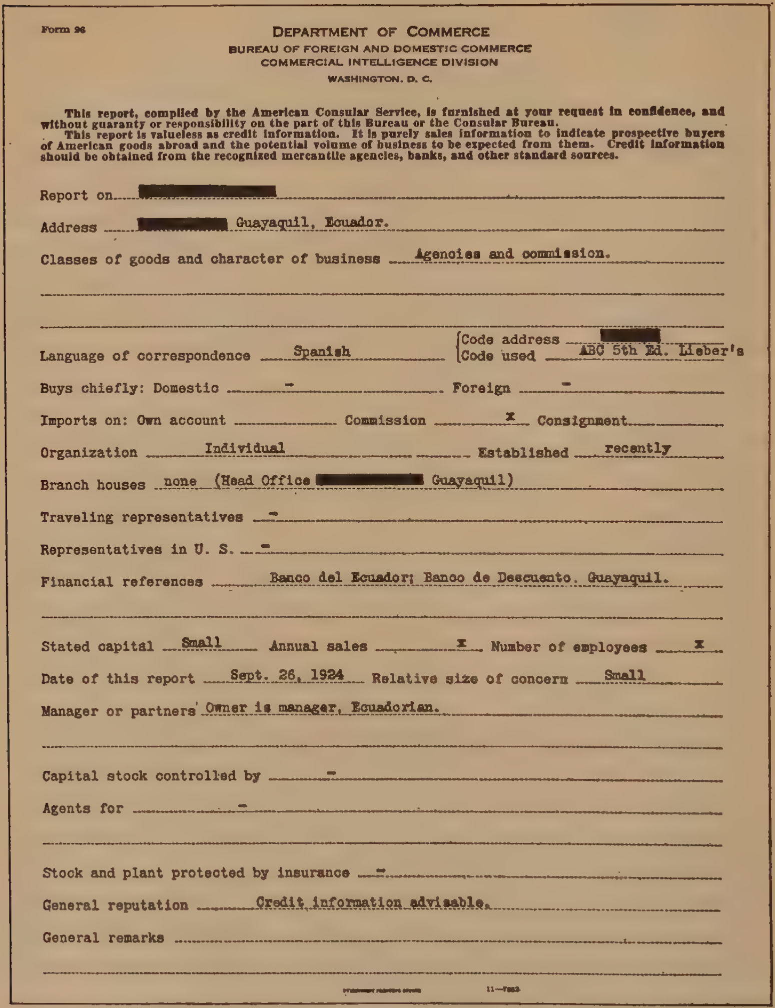
Whenever an exporter sells through foreign agents but is responsible for customer credits, the agents take the place of the salesman in the position just discussed. In this case the exporter is dealing with an outside concern and not with one of his own, and he cannot be as insistent or didactic as in the latter instance. The credit man can, however, look to the agent for considerable credit data if, as is to be supposed, this representative has been carefully selected. The experience—business and personal—that an agent has gained in the field where he operates, gives him a valuable line on the standing of business men, particularly if they are his customers.

Moreover, business men naturally give the names of other foreign business concerns as credit references. This practice is of little value in foreign trade unless houses of recognized standing and integrity are called on for this purpose. The criticism that references are "hand-picked" applies with special force in connection with foreign references. If the exporter deems it advisable to communicate with trade references, it is generally better to ask agents, salesmen, banks, credit bureaus, etc., to do so than to undertake it himself.

In case a foreign customer has had previous satisfactory business dealings with American suppliers, he will be likely to name them as credit references. The exporter, as discussed above, will naturally place greater confidence in the opinion expressed by fellow-countrymen because of the ease of ascertaining the reliability of such concerns. These references may either be communicated with directly or through the medium of banks, credit bureaus, and other credit agencies. Many of these are always interested in learning of new credit references in order that reports on file may be as complete as possible.

United States Government Sources.—By including the United States Government as a source of foreign credit information it is not to be inferred that the Government is in the credit reporting business. Among its activities relating to the promotion of foreign trade and coming within the scope of what is known as "commercial intelligence," is the provision of certain data for the benefit of American exporters. This information is procured through the American Consular Service and the overseas representatives of the Department of Commerce.

American consuls, commercial attachés and trade commissioners will answer direct inquiries addressed to them relative to business houses abroad. This service is especially valuable as a means of obtaining a local viewpoint or an unbiased opinion. Of course, government representatives are not and do not pretend to be personal credit reporters and the result of their work in this connection is largely to be found in the *World Trade Directory Reports.*



Form 26

DEPARTMENT OF COMMERCE
BUREAU OF FOREIGN AND DOMESTIC COMMERCE
COMMERCIAL INTELLIGENCE DIVISION
WASHINGTON, D. C.

This report, compiled by the American Consular Service, is furnished at your request in confidence, and without guaranty or responsibility on the part of this Bureau or the Consular Bureau.

This report is valueless as credit information. It is purely sales information to indicate prospective buyers of American goods abroad and the potential volume of business to be expected from them. Credit information should be obtained from the recognized mercantile agencies, banks, and other standard sources.

Report on [redacted]
Address [redacted] Guayaquil, Ecuador.
Classes of goods and character of business Agencies and commission.
Language of correspondence Spanish
Code address [redacted]
Code used ABC 5th Ed. Lieber's
Buys chiefly: Domestic - Foreign -
Imports on: Own account Commission x Consignment
Organization Individual Established recently
Branch houses none (Head Office [redacted] Guayaquil)
Traveling representatives -
Representatives in U. S. -
Financial references Banco del Ecuador; Banco de Descuento, Guayaquil.
Stated capital Small Annual sales x Number of employees x
Date of this report Sept. 26, 1924 Relative size of concern Small
Manager or partners Owner is manager, Ecuadorian.
Capital stock controlled by -
Agents for -
Stock and plant protected by insurance -
General reputation Credit information advisable.
General remarks

FORM VI. WORLD TRADE DIRECTORY REPORT

World Trade Directory Reports.—To grasp the full meaning of the United States Government services in providing credit information, it is well to understand the nature of the *World Trade Directory Reports* published by the Bureau of Foreign and Domestic Commerce. On the forms used for disseminating the "credit" data on file, the following explanation is given in heavy type: "This report is valueless as credit information. It is purely sales information to indicate prospective buyers of American goods abroad and the potential volume of business to be expected from them. Credit information should be obtained from the recognized mercantile agencies, banks, and other standard sources."

World Trade Directory Reports are found from experience to be especially valuable as an aid in determining the third "C" of the credit family, namely Capacity. Little information is given as to either Character or Capital, the bulk of the report containing data on the basis of which an opinion can be formed as to the management, organization, and business ability of the foreign concern. This type of information is generally more valuable in selecting foreign representatives than in passing on credit extensions.

Foreign Trade Publications.—Some of the foreign trade journals offer an export credit service for the use of their advertisers. Few of them pretend to offer credit data that is in any way complete, most of the information being of a general nature and sometimes not of too recent origin. These journals are engaged in the publishing and advertising business and they cannot be expected to exhaust the possibilities of foreign credit research. The *American Exporter* gives free credit service to its advertisers and *La Hacienda,* circulating principally in Latin America, also disseminates credit data. The *Importers Guide* provides "confidential opinions" to advertisers during the period of the contract and there are doubtless other foreign trade journals that offer a credit service to their advertisers.

The preceding are the usual sources to which American exporters may go for information on the standing of foreign customers. They have, indeed, kept pace with the increased interest of the United States in export trade. The excuse is no longer valid that information relating to business houses or to local conditions abroad is not available and therefore that credit cannot safely be granted. The safe principle to follow in using the available sources is to employ as many of them as may appear advisable in any instance.

COLLATERAL READINGS

United States Bureau of Foreign and Domestic Commerce, *Sources of Foreign Credit Information,* Trade Information Bulletin 292 (1924).

See also readings appended to Chapters XXVI, XXVII, and XXIX.

CHAPTER XXIX

FOREIGN CREDIT GUARANTEE AND INSURANCE

As discussed in the preceding chapter, many factors enter into the foreign credit problem and it is at times difficult to determine what credit may safely be granted to a particular foreign customer. Although the sources of foreign credit information are improving, some element of uncertainty still remains, and the competitive factors of international trade tend to aggravate the credit problem. Foreign as well as domestic competitors are granting credit and failure to comply is disadvantageous to business expansion.

With the establishment of banking and credit information facilities, it has become increasingly facile for American exporters to allow credit to foreign customers. The best sources of information, however, cannot guarantee payment of a draft or of an open account extension and this element of uncertainty has called into existence various plans for protecting the credit risk.

CREDIT GUARANTEES

Certainty of payment may be obtained by means of guarantees, provided, of course, the guarantor is thoroughly responsible. The oldest and most widely known method of shifting the credit burden by means of a guarantee is known as *del credere*—a term really synonymous with guarantee. *Del credere* transactions, in one sense, consist in discounting drafts drawn with the words "without recourse" placed under the signature of the drawer. The party (bank) that buys the paper thus becomes responsible under the bill and the drawer is entirely relieved. For this service a commission is charged, measuring roughly the risk incurred in the guarantee. Banking houses that deal in such paper are not usually to be found in the United States but they are of some degree of prominence in countries where a close affiliation between the banking, commercial, and industrial interests exists.

In another type of *del credere* arrangement, sales agents and not banking institutions, assume the risk. An exporter may employ the services of a commission sales agent abroad and the agent may assume the entire responsibility to customers, including credit risks. In such an arrangement, the exporter generally extends credit to the customers but he looks to the agent for a part or all of the funds due under credit extensions, in case the customer fails to make payment. For this service the agent receives a *del credere* commission in addition to his usual sales remuneration.

The payment of credits in international trade may also be assured by means of a bank acceptance. This may be provided by the irrevocable and confirmed letter of credit, under which, as explained in Chapter XXVI, the issuing and confirming banks are both responsible to the drawer of the drafts. As letters of credit, however, are not everywhere and at all times obtainable, a more direct form of bank guarantee is sometimes utilized. Mr. E. B. Filsinger in his address "Is Credit Necessary in Foreign Trade?" delivered at the Thirteenth National Foreign Trade Convention, describes two such instances.[1]

> In certain southern and central European countries, such as Bulgaria and Roumania, the seller can go to a local bank and state his desire to do business with a local merchant and request the bank to guarantee the account. If the name is satisfactory to the bank it will issue its guarantee to the seller without the knowledge of the buyer of goods. There is also a practice in Italy where, under satisfactory conditions, the buyer can arrange with his local bank to endorse his accepted drafts "per avallo." The use of these words, over the signature of the bank, makes it the direct obligation of the bank. In the event of failure on the part of the acceptor to pay, the bank must pay immediately.

Certain criticisms, however, have been directed against bank guarantees.[2] It may be necessary to exhaust all possible means of collecting from the defaulting creditor before the guarantor becomes liable and delay is almost certain to ensue. Moreover, it is usually stipulated in bank guarantees that changes in the specifications appearing in an order may be made by the exporter only with the agreement of the guarantor. A further indictment of the foreign bank guarantee as a means of insuring the export credit risk, was presented in an address by Mr. Wilbert Ward, Assistant Vice President of the National City Bank, at the Fourteenth National Foreign Trade Convention.[3] Mr. Ward raised the question as to the legal power of the foreign bank to grant such a guarantee. In the United States, national banks are not so empowered and the authority of a foreign bank to do so is often uncertain and indeterminable. Furthermore, foreign bank guarantees are frequently indefinite, even if legal, and the precise coverage of the guarantee or the methods by which it is to be employed, or the rights of the respective parties to the agreement, are not always clearly set forth. In realizing funds under a draft drawn in accordance with a bank guarantee, Mr. Ward points out that the exporter's only available market for the bill is his own bank ''against the line of credit held at his disposal for the purchase of foreign bills'' and that the rate of discount charged is higher than for bank acceptances (used under a letter of credit). Although the fee charged for establishing a bank guarantee may be smaller than for a letter of credit, this saving to the buyer is offset by the extra cost to the seller of discounting the draft, and this would usually be included in the selling price. Championing the use of bank acceptances drawn under a letter of credit, Mr. Ward contends that the buyer receives no more and the seller substantially less under the bank guarantee. Indeed, he maintains that the issuance of such guarantee, with its insecurity and smaller profit to the bank, is possibly a reflection on the standing of the bank, which apparently realizes that its acceptances are not considered satisfactory by other bankers.

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[1] E. B. Filsinger, in *Proceedings, Thirteenth National Foreign Trade Convention*, 1926, p. 252.

[2] D. W. Fernhout, in *ibid.*, p. 281.

Credit may also be guaranteed by individuals, but this practice has only developed to a marked degree in certain countries where the prevailing banking and commercial structures have failed to provide adequate protection of the rights of sellers. It is illustrated in the case of sales made to native dealers in China and in India, where the comprador and the guarantee broker, respectively, have occupied a prominent position for decades. These individuals were called into existence because of the unusual conditions of native trade, and foreign houses generally refused to extend any credit without a binding guarantee. The comprador or guarantee broker is connected with the organization of the foreign importing house in China and in India and for a commission passes upon and personally guarantees all credits extended to native buyers. The responsibility of the guarantor is backed by cash, securities and/or real estate of sufficient value to sustain adequately this position of trust. In addition to the credit guarantee, these individuals perform merchandising and other functions. With the development of these Eastern countries, this system is declining but until satisfactory means of obtaining adequate credit data on native merchants are available and until security of the rights of sellers is provided, some such form of credit guarantee may remain of importance.

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[3] Wilbert Ward, in *Proceedings, Fourteenth National Foreign Trade Convention,* 1927, pp. 430-436.

FOREIGN CREDIT INSURANCE

Insurance of foreign credits by means of an indemnifier assuming the risk involved in consideration of a premium paid by the insured has attracted attention in the United States only since the World War. With the wholesale destruction and collapse due to the War, credit was severely strained and in some instances utterly annihilated.

At the Fifth National Foreign Trade Convention in 1918, a plan of foreign credit insurance was presented by Mr. George R. Meyercord, President of the Illinois Manufacturers' Association.[4] Receiving favorable comment, the plan was set in operation, developing in 1919 into the American Foreign Credit Insurance Exchange.

This concern is an association of American manufacturers and exporters, formed for the purpose of extending the foreign trade of its members and of protecting credits granted by them on good accounts. It is a coöperative organization and is managed by the American Foreign Credit Underwriters, Inc. It is interesting to observe the insurance feature of the Exchange which is not, in itself, an insurance company. By means of reinsurance agreements all but a nominal portion of each individual risk is placed with insurance companies. The Exchange therefore assumes relatively little responsibility and it directs considerable effort toward the promotion and protection of the foreign trade of its members. The legal department, under the management of an international law firm, affords legal service in all branches of foreign work, including the collection of accounts, at preferred rates. The firm has affiliations with approximately 3,600 commercial attorneys throughout the world.

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[4] George R. Meyercord, in *Proceedings, Fifth National Foreign Trade Convention*, 1918, p. 435.

Since this organization is the only American company that underwrites foreign credit insurance, a brief survey of its plan and activities will be profitable. An annual fee of $250.00 is charged for membership in the Association, and, for insurance purposes, each member of the Exchange operates under a master policy. A particular risk, on which insurance is desired, is nominated by the subscriber and this nomination is either accepted or rejected by the Exchange. No blanket coverage is granted, but instead, individual shipments are protected as they are nominated and accepted for insurance by the Exchange. The protection granted by the Exchange to its members, so far as its insurance features are concerned, lies in the risks of insolvency of the buyer and of the uncollectability at law of an unpaid account. The Exchange has defined insolvency in its master policy [5] and its *manual of procedure, viz.:*

> A foreign debtor shall be considered insolvent under the terms of this policy when it shall be established that:
>
> (*a*) The aggregate of the property of such debtor at a fair valuation shall not be sufficient in amount to pay his debts and such debtor shall have failed to pay his debts as they matured without legal excuse therefor.
>
> This covers a case where there is an insufficiency of assets at a fair valuation to meet the liabilities, and failure on the part of the debtor to meet maturing obligations.
>
> (*b*) The debtor shall have been adjudicated a voluntary or involuntary bankrupt according to the laws of the country in which the debtor resides or has his business establishment.
>
> This covers both voluntary and involuntary bankruptcy.
>
> (*c*) The debtor shall have made an assignment of his assets for the benefit of his creditors.
>
> This includes all forms of assignments and liquidations, informal as well as formal, for the benefit of the creditors.
>
> (*d*) The debtor's stock in trade shall have been sold under a writ of execution.
>
> This covers a case where the property of the debtor shall have been sold under a judgment, or a decree of a court in the buyer's jurisdiction.

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[5] *See* Appendix III.

(*e*) A writ of execution or attachment in the jurisdiction where the principal place of business of the debtor is located shall have been returned unsatisfied.

This covers a case where the debtor has insufficient assets to satisfy a writ of execution, or attachment, and provides that the return of such a writ unsatisfied shall be sufficient evidence of insolvency. It does not require any sequestration, receivership or supplementary proceedings.

(*f*) The debtor shall have compromised with a majority in number and amount of his creditors for less than the amount of his indebtedness to them.

This is similar to the provisions of our bankruptcy law with regard to compositions, except that it does not require any judicial confirmation. Hence, the debtor's making a compromise out of court with the majority in number and amount of his creditors is a form of insolvency under the Policy.

(*g*) A receiver for the debtor shall have been appointed and confirmed in a bankruptcy or insolvency proceeding.

This is a qualification of (*b*) above that broadens the coverage as it requires merely the appointment of a receiver in a bankruptcy or insolvency proceeding, and does not require an adjudication on bankruptcy.

(*h*) The debtor shall have transferred or sold in bulk his stock in trade without having made due and proper provisions for the full settlement of his indebtedness.

This covers a transfer of stock in trade made in disregard of the creditors, and is similar to the "Bulk Sales Law" which has been adopted in many states.

(*i*) The debtor shall have absconded.

This covers a case of a debtor who has left his domicile permanently without leaving sufficient assets or making proper provisions to pay his debts.

Furthermore, uncollectability at law is specifically assumed in Section 23 of the master policy, *viz.:*

> If the Legal Department of the American Manufacturers Foreign Credit Underwriters, Inc., or the attorneys for the Exchange, independently or at the instance of the SUBSCRIBER, shall determine, even in the absence of an overt act of legal insolvency by the debtor, that litigation against the debtor is useless or that the insured account cannot be collected on its merits by legal process, on account of the inability of the debtor to pay a judgment, the EXCHANGE will adjust and pay the loss on such insured account upon certification of such findings by their attorneys.

It is clearly set forth that insurance does not cover insolvency or bankruptcy caused by a state of war or by earthquake; and trade disputes, disputed accounts, rejected shipments, mere failure to pay, general extension, moratorium, or suspension of payments are not insured against except that insolvency due to any of these causes is an accepted risk. There are also certain restrictions on the amount of insurance granted in any one instance.

Besides a credit rating, the Exchange assigns to each foreign buyer (*a*) a maximum total insurable line, and (*b*) a maximum individual line. These are respectively (*a*) the total amount of insurance coverage available to all members selling to that buyer and (*b*) the total amount of insurance available to any individual member at one time. These amounts, or lines, are determined upon not arbitrarily, but only as the result of a careful and thorough analysis of data relating to essential points in regard to the buyer. Among the main factors governing the assignment of the maximum lines are:

(*a*) The financial responsibility represented;
(*b*) The nature, extent and respective proportions of known resources and obligations;
(*c*) The moral risk;
(*d*) The lines of merchandise handled and facilities for turnover;
(*e*) The tendency or necessity to scatter or restrict purchases with many or few sources of supply;
(*f*) The number of known sources of supply.[6]

The restrictions correspond to what the foreign credit man designates as the credit limits he places upon each customer.

The Determination of Rates.—The determination of insurance rates is based upon four primary factors, the significance of which will be readily grasped. First, there is the credit status of the buyer. This is the desirability of the account from a credit point of view as decided upon by the Exchange. There are several sources from which credit data are obtained but the principal source is the ledger experience of the subscribers, the reciprocal interchange of which is agreed to by all subscribers upon joining the Exchange. Their records are at once available for scrutiny by duly authorized representatives of the Exchange and all information pertaining to the subscriber's experience with all of his foreign customers is confidentially incorporated into the central credit file. Upon being admitted into the Exchange, the new member's credit records are carefully checked, after which “it is expected that he will systematically and promptly keep the Exchange informed on more recent credit reports obtained, new accounts opened, etc.”

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[6] *Manual of Procedure*, American Manufacturers Foreign Credit Insurance Exchange, p. 14.

In case insurance is desired on a buyer who is unrated by the Exchange, the subscriber so nominating is to submit all the credit information and references that he has relating to the buyer and such data are expected adequately to support the credit extension requested. This is a phase of the management and business sagacity that subscribers are supposed to employ in handling their credits, insured or uninsured. Foreign buyers who are already listed with the Exchange, are invited to prepare and submit voluntary financial statements, references, etc., in order to enable the Exchange to maintain an accurate and up-to-date record of the credit standing of the importer. “The Exchange has attained much prestige in certain foreign markets. If it had done no other service to American interests than to popularize among reputable business firms of Latin America the practice of submitting financial statements, practically unheard of a few short years ago, it has a lasting achievement to its credit.”[7]

As a result of the data collected the Exchange assigns credit ratings to foreign business houses, indicated by a symbol:

AA	*prime*
A	*high*
B	*good*
C	*fair*
D	*qualified*

Buyers concerning whom information is of such a conflicting nature that a definite rating cannot be assigned at the time a nomination is made or the guidebook published, are listed as “X” and those whose records show them to be uninsurable or questionable are designated as “XX.” Approximately 250,000 foreign buyers of American goods are now rated by the Exchange. These ratings are provided to subscribers in response to their “application” for either insurance or rate quotation. For the Latin American market, a guide is published giving the rating accorded each of the buyers listed, but these ratings are subject to confirmation before insurance will be issued. Constant changes in ratings reflect the rapidly shifting conditions in world trade as well as the watchfulness of the Exchange. Information of such a nature as to require changes in ratings is automatically and promptly transmitted to all subscribers who provided ledger experiences on the buyer concerned. The second factor considered in the determination of rates is the market conditions in the buyer's country. As stated in connection with the study of credit data, a large number of factors of an indirect nature are always to be considered in credit surveys. These factors relate to the economic, business, political, and other conditions in the foreign country, over which the importer has no control but to which he is decidedly subject. The American Manufacturers Foreign Credit Insurance Exchange considers these factors in its ratings of foreign business men. A corps of correspondents is maintained in the important commercial centers of the world for the purpose of reporting on current matters that relate to the credit problem in a general way. From information of this nature, the various countries are grouped according to their desirability from a credit angle. In some countries, insurance will not be written at all, in another group certain limitations are imposed, while in still others sufficient stability exists to permit of wise credit extension. These groups are constantly being revised in accordance with changing world conditions.

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[7] Letter from American Manufacturers Foreign Credit Underwriters, Inc., July 28, 1927.

The terms of sale constitute a third factor in determining ③ rates. Since legal action is more readily and promptly available in case of failure to pay a draft, either sight or time, the premium on transactions shipped under bills of exchange is lower than the fee for insuring open accounts.

Fourth, the insurance premium varies with the length of time (4) during which the Exchange assumes responsibility. A minimum of two months and a maximum of six months are observed in 2-6 m issuing certificates of individual coverage under the master policy. Extensions of this period of time may be arranged, however.

Each of the above factors is reflected in the premium rates quoted. The basic premium is for sixty-day sight draft credit to a buyer rated "A" in a country of the best group (Group 1). This premium is 1 per cent. For risks classified as B, the premium is 1¼ per cent, and for C, it is 2 per cent. For each period of 30 days in excess of two months, up to the fifth month, the additional premium is 1/8 per cent, but for the fifth and sixth months, it is 1/4 or 3/8 per cent greater. Credit extensions insured for only one month are 1/8 per cent less than for the sixty-day period. Coverage for open account terms may be had for the same periods of time as draft extensions, the premiums being 1/8 per cent greater in the case of AA firms and 1/4 per cent more on all other ratings.

In countries placed in Group 2 where insurance risks are not so generally favorable, the same coverage and extensions are allowed as in Group 1, but the rates charged are somewhat higher. Under draft extensions, the premiums are 1/8 per cent greater for AA and A risks; 3/8 per cent greater for B firms and 3/4 per cent more in the case of class C. Open account terms may be covered at the same additional rates as in Group 1. Substantial reductions of 22 and 25 per cent in premiums on class B and C risks, respectively, may be obtained by the subscriber if he assumes 20 per cent co-insurance and it is the intent of the Exchange that co-insurance be undertaken in these instances. In Group 3 countries, rates are quoted only on application, no more than $25,000 is written on any one name and co-insurance ranging from 20 per cent to 50 per cent is required. In Group 4 countries, insurance is not written at all. Under the terms of a special rider, the subscriber may agree to offer to the Exchange for insurance all credit shipments excepting those sold against sight draft or letter of credit payment. In return, the Exchange undertakes the full coverage, without co-insurance, of all risks accepted.

The period of time for which protection is needed under credit insurance covering individual risks is measurable but not accurately anticipatory. For example, a certificate of four months' coverage may be taken in the belief that the insured transaction will have been accomplished within that time, but if payment has not been made, where does the insured stand? His protection expires just at a time when payment of the insured account may become questionable. Delays in transit, in the acceptance of drafts and in payment, may create these conditions. The Exchange therefore automatically renews insurance for successive periods of one calendar month each for renewal premiums of 1/2 per cent. Waiver of renewal premiums for the first two months may be granted a subscriber upon complying with certain requirements. "This same procedure and renewal premium charge are then continued on each necessary further renewal up to and including the end of the sixth calendar month (eighth in case the first two months were free), from the date of expiration of the original certificate, after which all renewal premiums cease, even though the Exchange continues at risk."[8] Renewal premiums as well as certain other charges may, at the option of the member, be paid by a flat fee, eliminating the separate charges.

In addition to the general plan outlined, there is also a "Flat Rate Plan" under which the Exchange offers to those exporters who have a substantial volume of foreign business, with a good foreign credit and sales organization, and a favorable loss experience, a premium rate adjusted, as nearly as possible, to the individual case. Under this plan, all credit shipments are offered for insurance, the Exchange reserving the right to decline any or all of them. The premium is a uniform percentage, depending upon the particular subscriber and it is not affected by the terms of payment or the standing of the buyer. The member operating under this plan is required to carry at least 20 per cent co-insurance. In case of delayed payments, the same renewal feature applies as in connection with the general plan of insurance. This arrangement enables exporters whose business runs into large volume to receive wide insurance coverage at a rate little higher than their own loss experience shows.

SELF-INSURANCE

Self-insurance takes the form of a reserve set aside for bad debts. This practice is followed in domestic as well as in foreign trade. This reserve is computed on the basis of the past credit experience of the concern and is placed at an amount sufficient to offset prospective losses on accounts receivable, the assumption being that future losses will average the same as in the past. The failure of this statistical expectation to work out uniformly has wrecked many self-insurance plans, no matter what the subject matter covered.

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[8] *Manual of Procedure*, American Manufacturers Foreign Credit Insurance Exchange, p. 16.

This plan of providing indemnity against foreign credit losses is perhaps more widely employed than any other. Exporters frequently feel that adequate protection is supplied by self-insurance, provided, of course, a conservative and wideawake policy of credit extension is punctiliously observed. When credit is carefully granted, it is felt that losses will be small and that they may be readily assumed by the exporter. The amount set aside as a reserve for bad debt losses is a tax on the entire business—an expense of operation, and it is included in the selling price of the merchandise. If sufficient reserve can be built up before a staggering loss is sustained, this plan may be quite satisfactory but events may not transpire in this manner.

CREDIT LOSSES IN FOREIGN TRADE

It is interesting and instructive to observe the opinions expressed by exporters relative to the credit losses sustained in foreign trade. The startling fact revealed is the contention of some that such financial losses are almost negligible. In an address in 1919 at the Sixth National Foreign Trade Convention, it was stated that "a careful analysis of the world's international business will show that the percentage of losses on foreign sales has been very much less than the percentage of losses in domestic transactions."[9] This statement may appear somewhat exaggerated, but it is supported by the opinions of other exporters. Indeed, it has been maintained and thoroughly assented to that the credit losses in foreign trade do not, with the exercise of proper care, exceed ⅓ to ½ per cent.[10] This figure is only an estimate based upon the experience of successful exporters and probably cannot be regarded as a general average for all trade. It does not include losses incurred since 1920 as a result of price adjustments or nefarious trade practices. The broad statement is further made, that "if an exhaustive compilation could be made, it would doubtless show that the losses which followed the sensational decline of prices in 1920 were really not credit losses but actually the result of merchandise price adjustments. . . . Losses as a result of nefarious trade practices cannot properly be classed as credit losses.''[11] The ½ per cent thus represents credit losses only and does not contemplate losses resulting from trade disputes, refusal of merchandise, and such causes. It therefore is closely analogous to ''insolvency'' as defined by the American Manufacturers Foreign Credit Insurance Exchange and covered in the insurance policies of the Exchange.

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[9] J. McCurrach, in *Proceedings, Sixth National Foreign Trade Convention*, p. 210.

[10] E. B. Filsinger, in *Proceedings, Thirteenth National Foreign Trade Convention*, p. 252.

Many exporters have carefully studied the problem and they are not favorably impressed with credit insurance, at least as worked out at present. To the reader, one obvious conclusion has probably presented itself, *viz.:* if it be true that the credit losses of American exporters do not exceed ½ per cent, what advantage can there be in paying an average of three-fourths of one per cent (and usually more) to obtain credit protection?

The Exchange comments on the claim of ½ per cent credit loss, by stating that ''there is much current misconception on the subject of the insolvency hazard in foreign trade. It is true that many concerns have had a remarkably low rate of loss in foreign trade. But in view of the great diversity of commodities and of distributing methods, it is idle to draw conclusions or to make comparisons establishing a uniform experience for, say, the loss in the credits granted by flour exporters to Brazil, textile exporters to Argentina, automotive exporters to Holland, typewriter exporters to Germany.''[12] Moreover, Mr. William G. Marvin, of the firm of Marvin and Bergh, General Counsel for the Exchange, in an address at the Eleventh National Foreign Trade Convention, remarked: ''It is a familiar trick on the part of those who are attempting to minimize the dangers of foreign trade to take the United States exports with the world and then state that the ultimate losses thereon are only about one-half of one per cent.'' Mr. Marvin estimated that of the total American exports, exclusive of bulk commodities, shipped to Latin America during the five-year period 1919-1924, at least 8 per cent comprised the credit loss; that of the 1922 and 1923 business, thereby eliminating the 1920-21 depression, about 4 per cent represented credit losses, subject to a probable reduction to 2½ per cent when all litigation is completed. He further stated that ''it is noteworthy that a large proportion of these outstanding accounts are of a preventable type, and I would estimate that these frozen accounts could be reduced to not more than one per cent by adopting proper credit and legal safeguards.''[13]

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[11] *Ibid.*

[12] Letter from American Manufacturers Foreign Credit Underwriters, Inc., July 28, 1927.

The Exchange has compiled data showing the ratio of losses to insurance written according to 64 countries and according to 58 commodities. In 24 of the countries for which statistics were compiled, losses amounted to less than .5 per cent and in 11 countries, the losses were from .5 per cent to 1 per cent of the insurance written. Then comes the surprising number of 19 countries in which losses averaged from 1 to 2 per cent. In 5 countries, the loss ratio was between 2 and 3 per cent, in 2 countries it was from 3 to 4 per cent and in 3 countries the loss was over 4 per cent, over 6 per cent, and in excess of 17 per cent, respectively.

From the commodity angle, losses revealed even higher average ratios. In only 10 lines of merchandise was the loss under .5 per cent and in 12 lines it was from .5 to 1 per cent. In nearly one-half of the 58 commodities reported, or 27, losses amounted to 1 to 2 per cent. In 5 lines, losses were from 2 to 3 per cent; in two instances it exceeded 3 per cent; and in one instance it was in excess of 4 per cent. In one commodity alone (coal), no losses were reported.

These loss ratios sustained by the Exchange tell their own story concerning the reported ½ per cent of credit losses in export trade.

Without data relating to the volume of insurance written on each country or commodity line, conclusive evidence of losses cannot be presented. The fact is abundantly demonstrated, however, that according to the experience of the Exchange, loss ratios vary widely among trades and countries. Unless a world-wide foreign trade is conducted by an exporter, excessive losses may be sustained in some sections with no assurance that they will be counterbalanced by favorable results in a safer quarter.

There is a feeling among some exporters that credit insurance is only advisable for those who do not possess the facilities and organization for gathering and properly utilizing the credit data that are now available in such abundance. To them, it is an admission of weakness in this important branch of foreign trade work to seek insurance protection. Moreover, some exporters desire to take out credit insurance only on the doubtful customers, feeling that they can easily take care of the good risks; indeed, that it would be folly to do otherwise.

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[13] William G. Marvin, in *Proceedings, Eleventh National Foreign Trade Convention*, p. 226.

The Exchange states that "insurance is granted to members covering those credit risks which appear to be good at the time the credit is extended. If, through error in judgment, or later unforeseen developments, credit losses occur, the insured members are reimbursed. . . ."[14] This policy does not appeal to some business men who, on the other hand, have no difficulty in comprehending the reason life insurance companies will not write a tubercular risk. In justice to insurance as a sound business, it is an established principle that risks be desirable; if not, it degenerates into a speculation.

Credit insurance undoubtedly performs a legitimate and essential function, although it does not follow that all export credit transactions in all trades and under all conditions should be insured. If it enables an exporter to estimate with fair accuracy the probable extent of his credit losses in foreign sales, it provides a stability that otherwise is left somewhat to chance. As discussed in the preceding chapter, the factors influencing foreign credit risks are varied, and in many instances they are beyond the control of business men. Credit insurance, even on apparently good accounts sold on a credit basis, may not be as expensive or useless as it is sometimes asserted; if it can be procured to cover poorer risks, it may actually lead to more business; and if it permits the exporter to quote more favorable terms of sale, it likewise produces a salutary effect upon sales. All exporters, moreover, are not equally well equipped to judge and assume credit risks.

In no case, however, is an exporter warranted in depending entirely upon insurance as now available in the United States and in ignoring uninsurable trade and political risks. These dangers are borne by the exporter and to protect against them, a reserve of sufficient proportions may be set up in addition to credit insurance. Indeed, the importance of the uninsurable types of risks is viewed by some as greater than the insolvency hazard, which may be covered by insurance. The losses and annoyance arising from insolvency "are much smaller and much less than the losses because of disputes over quality of merchandise, terms of sales, where the man will refuse the payment not while he is bankrupt, but for some other reason, best known to himself. You are then forced into a position where you have to divert the goods, sell them in the open market, or do something else. That is expensive. . . ."[15]

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[14] Letter from American Manufacturers Foreign Credit Underwriters, Inc., July 28, 1927.

EXPORT CREDIT INSURANCE PRACTICE IN EUROPE[16]

A survey of export credit insurance in Europe discloses no long extended background of experience from which either European or American insurance companies and exporters can draw final conclusions. Export credit insurance as now practiced is a recent thing in Europe. It is still in its experimental stage, changes are being made almost constantly in an effort to extend its use. Credit insurance is there regarded as a means of promoting the export trade and relieving unemployment.

Such a survey as this can be subdivided more or less logically into a discussion of (1) the extent of European export credit insurance, (2) forms of credit insurance policies issued to European exporters, (3) European Government participation, (4) arrangements with banks, and (5) general methods of operation.

Extent of European Export Credit Insurance.—It is generally admitted that modern export credit insurance as practiced in Europe had its origin in London during the nineties and that little was accomplished until about 1926. In 1891 a Trust Company initiated a plan for the insurance of bills of exchange, the merchant recovering 50 per cent of his loss in the event of default on the part of the acceptor of the draft. As the loss was paid immediately in the event of the draft being dishonored, the insurance company virtually acted as bankers, the entire premium income frequently being used in financing the merchants' temporary difficulties, and the interest lost in this financing ate up the company's profits. The plan was abandoned because it became necessary either to increase premium rates substantially or to change the policy contract radically. In 1896 Lloyds Underwriters also became a factor when a small trade acceptance guarantee syndicate was organized. This practice continued for some years, but it seems that later the interest of Lloyds became mainly that of reinsurers. In 1924, as the result of a failure of a member, the Committee of Lloyds required the endorsement on every policy of a clause stating that "no policy or other contract dated on or after 1st January, 1924, will be recognized by the Committee of Lloyds as entitling the holder to the benefit of the funds or guaranties lodged by the underwriters of the policy or contract as security for their liabilities unless it bears at foot the seal of Lloyds' Signing Bureau." This greatly reduced the credit insurance market at Lloyds. In 1894, an insurance company known as the Excess Insurance Company was organized and this company continued to write credit insurance until 1918 when that branch of its business was transferred to the Trade Indemnity Company, Ltd., which was organized during that year for the express purpose of insuring domestic and foreign credits.

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[15] Allan B. Cook, in *Proceedings, Fifteenth National Foreign Trade Convention*, 1928, p. 92.

[16] Reproduced from a paper presented in April, 1929, before the Sixteenth National Foreign Trade Convention, by G. G. Huebner. Reprinted by permission of the National Foreign Trade Council.

This company is now the only private British insurance concern insuring a substantial volume of export credit transactions. One or two other companies are interested in a minor way. A number of great domestic insurance companies have recently begun to reinsure risks covered by the Trade Indemnity Company, but do not regularly write policies direct to exporters.

The only other source of export credit insurance in Great Britain is the Government's Export Credit plan which was first adopted in the autumn of 1919 as a possible means of promoting the export trade and in that way alleviating unemployment. It was at first limited to transactions with the Baltic States, Poland, Czechoslovakia, Yugo-Slavia, Roumania, Georgia, and America. The original plan was to make advances on merchandise exported to these markets to an amount not exceeding £26,000,000. The original plan, however, was not utilized to any great extent, and in 1921 it was changed into a scheme under which bills of exchange drawn by exporters were guaranteed. Its application at that time was greatly extended. It now applies to the entire world excepting Russia and certain classes of merchandise exported to Far Eastern markets. But the revised plan, likewise, was not used extensively. By 1926 the guarantees given under the plan of 1921 amounted to but £6,300,000 with a net loss to the Government of £31,000, not including interest. The plan, therefore, was again changed in 1926, but the volume of business transacted remained small and the loss to the Government was not entirely overcome. In 1928, therefore, an additional new contract granting an unconditional guarantee to bankers who discount bills of exchange was adopted, in the hope that this step would encourage the use of the Government's credit plan. The plan was not regarded as permanent when first adopted, but it has been extended from time to time, and in 1928 was again extended for a period of two years. An effort is also now being made to reduce expenses and make the plan self-supporting.

In Germany export credit insurance is provided mainly by two private companies—the "Hermes" Credit Insurance Bank Company and the Frankfurter General Insurance Company—with the support of a Government fund. Some export credit insurance is written by the companies without Government aid, but the major part of the export credit insurance business depends upon the plan under which the Government reinsures the entire so-called catastrophe risk and a part of the normal export credit risk.

The principal export credit insurance company in France is L'Urbaine Credit, and export credit insurance companies, operating with or without Government support, have been organized in Holland, Austria, Belgium, Denmark, Switzerland, Sweden, Italy, Czechoslovakia, and perhaps in other European countries.

Forms of Credit Insurance Policies Issued to European Exporters.—The principal form of policy written by the Trade Indemnity Company of England is a declaration policy covering bills of exchange. It may be drawn either to cover a particular transaction in which a bill of exchange is drawn on a customer in respect of merchandise sold and delivered; or to cover a series of transactions with one or more customers. The latter is a floating policy designed to cover open accounts, but requires and defines the use of bills of exchange. Another distinctive feature of the bill of exchange policy is that it insures the exporter against losses resulting from the insolvency of the customer or customers in respect only of duly accepted bills of exchange. By insolvency it is understood that "an adjudication in bankruptcy has been made, or a composition arrangement in legal form has been agreed to by the creditors generally, or a legal assignment has been executed for the benefit of creditors generally, or in case of a limited liability company an order has been made for the same to be liquidated either compulsorily or under supervision, or a resolution has been passed in legal form authorizing voluntary liquidation provided such resolution is not for the purpose of reconstruction. In case of debtors domiciled outside the United Kingdom, insolvency shall be admitted to exist when in the opinion of the company such conditions prevail as shall be deemed equivalent to an adjudication in bankruptcy in the case of individuals or firms or to liquidation in the case of incorporated companies.''

The policy covers not more than 75 per cent of the risk and frequently not more than 50 per cent of the net loss resulting from insolvency, for British practice adheres to the principle that the insured must assume a part of the risk. The exporter is required to take the customary legal precautions to protect his interests when his customers fail to take up the accepted bill of exchange, and payment of claims is not made to the exporter until after the net loss has been ascertained, excepting that if it is not ascertained within twelve months from date of insolvency, the insurance company makes a provisional payment of three-fourths of its proportion of the loss ascertained at that time. The policy may be extended or renewed for periods of three months subject to the limitation that the policy is issued for a period not exceeding twelve months. The company also issues a so-called time policy which insures the solvency of one or more customers during a specified period not exceeding twelve months, the risk being based upon the largest amount of credit that the exporter would have running at any time during the life of the policy irrespective of the amount of the turnover.

British and German Practice.—Premiums vary with the standing of the exporter, destination, country, and terms of payment. No definite tariff rates are followed. They are based on the portion of the risk that the insurance company is willing to accept instead of upon the gross amount of the credit. The reasons given for the uncertainty with regard to premiums are that the volume of business is small and insufficiently spread and that the average quality of business submitted by British exporters for insurance is not of the highest. One has a feeling that the uncertainty of the company's sources of credit information is an important factor.

The British Government's Export Credits Guarantee Department now issues two forms of guarantee contract. In contract A, which has been in use since 1926, the Government guarantees bills of exchange drawn by the exporter on a list of customers in a particular market up to limits shown in the schedule attached to the contract and within a total aggregate amount of bills of exchange. The guarantee is in the nature of insurance against the risk of bad debts contracted abroad. Normally, it covers shipments over a period of not more than six months and conditions are named, which, if broken, may invalidate the contract. Contract B, adopted in 1928, is designed particularly to facilitate the discounting of bills of exchange at banks. It guarantees to the bank payment at maturity of accepted bills of exchange up to a maximum of 75 per cent of their face value. The percentage of coverage and the premium are determined in each case according to its merits. To the exporter himself it grants the insurance protection provided in contract A, it enables him more readily to discount his bills because of the unconditional guarantee given the banker, and it relieves him from the necessity of promptly reimbursing the banker in case accepted bills are not honored by foreign customers. It covers either a specific name or lists of names for maximum periods ranging from six months for textiles to five years for heavy industries credits.

In Germany, under the plan in which the Government acts as reinsurer, the exporter may obtain either a policy insuring a particular transaction or one providing for collective insurance. In either case the protection granted covers only the risk of insolvency, including, however, what is there known as "uncollectability" due to catastrophe. The individual shipment policy applies only to transactions financed on the basis of bills of exchange. A feature of some importance is the distinction made between the inability of the foreign debtor to pay because of war, revolution, earthquake, Government interference or moratorium, and insolvency due to other causes. In the former instance, which is the catastrophe risk as defined in Germany, payment by the insurance company is due immediately, except that in case of Government interference, or moratorium, such interference must have continued for at least four months. Losses due to insolvency caused by other circumstances are not settled by the insurance company until the net losses are ascertained, subject to the proviso compelling payment within six months if the losses can be estimated. In case they cannot be estimated the rule is that the company pays 25 per cent of the balance outstanding at the end of six months, an additional 25 per cent at the end of a further six months' period, and the remaining 50 per cent at the end of a further period of twelve months. It is important to note that German insurance companies are not required to pay claims if the exported merchandise is rejected by a customer who is not insolvent.

As in England, the German companies do not insure the entire amount of the credit transaction. In the individual shipment policy the exporter until very recently bore the first loss of one-third of the invoice amount and could not insure this risk with any other insurance company. The exporter's share of the risk has recently been changed. He now may insure up to 87½ per cent of the invoice; that is, he must bear, as one part of his own share of the risk, 12½ per cent of the invoice amount. In addition to this, he is now required to bear from 20 to 33⅓ per cent of the loss in case a loss occurs. In applying these percentages the exporter's share as a whole may not, however, exceed 50 per cent of the invoice amount, and in case of the catastrophe risk it may not exceed 33⅓ per cent of the invoiced value of the exported merchandise. In case of export transactions settled on the basis of drafts, documents for payment, and also in case a condition of "uncollectability" arises before the merchandise is delivered, insurance is limited to 30 per cent of the invoice and in case a loss occurs the exporter bears, as his share, one-third of the net loss. The purpose of this limitation is to prevent insurance of the profit of the transaction and to oblige the exporter in addition to bear a share of the loss beyond the loss of his profit so as to increase the care with which he selects his credit risks.

The German companies do not insure individual export transactions for less than 4½ months, subject to the exception that D/P sales may be insured for 2½ months. Extensions are granted for additional periods of 3 months up to a maximum of 12½ months.

The standard premium amounts to 1⅓ per cent for 4½ months and 2/9 per cent for each additional month. Except in case of D/P sales, however, the premiums are based on the full invoice amount of the transaction, although the insurance policy formerly covered but two-thirds of the invoice amount and now compels the exporters to share heavily in the net losses that may occur. The exporter is also required to remit small additional amounts to cover the expense of obtaining credit information and he must pay a small tax on the insurance policy. In case of D/P transactions the standard premium is based upon 30 per cent of the invoice amount for a period of 2½ months.

Some export credits are insured on the basis of collective insurance which covers all shipments to a scheduled list of customers. Such a policy does not insure each particular transaction; it insures the loss on all shipments made throughout the period of one year. It is applicable to credits ranging from 60 to 120 days.

The German plan also provides for a policy in which exporters may insure bankers against loss from discounting their bills of exchange. This policy will be referred to in connection with banking arrangements.

In France both particular shipment and collective or lump sum credit insurance policies are also issued. The general principles adhered to are that the exporter retains a share of each risk, the general maximum insurable being 75 per cent of the risk; that the insurance is solely against the insolvency of the customers; that payments are not made until the amount of the loss is ascertained; and that the validity of the policy depends upon the absolute good faith of the exporter and the delivery by him of all pertinent information in his possession.

European Government Participation.—The Government participation in European credit insurance to which reference was necessarily made, variously takes the form of direct guarantees or insurance of exporters' credits, guarantees of bills of exchange to bankers, or support to private credit insurance companies by means of reinsurance or otherwise. It is due at least in part to the special conditions that ever since the World War have confronted some of these countries. Mention has repeatedly been made in Government reports and in statements made by European Government officials of the direct connection between these Government credit plans and the unemployment problem. The export trade of several of the principal western European countries has not recovered as rapidly as was hoped, and credit insurance is regarded as a means of stimulating their exports and in this way providing work for the unemployed and assuring business prosperity. Government participation is also due at least partly to the slow progress made by private credit insurance companies during the first eight years following the war period. In most instances it appears that private companies did not begin to make real progress until about 1926.

Special reasons for Government participation are given in several instances. Special reference is made to the inability of private European credit insurance companies to cover the catastrophe risk without Government support. Although European exporters desire protection against such risks, private companies have excluded some of them from their policies. As most credit insurance by private companies in Europe is of recent origin, the point is made that the companies, during the first years of operation, may not have sufficient resources to warrant the insurance of all forms of catastrophe risk. Still another special function ascribed to certain, although not all, Government credit plans, is the insurance of long-time credits such as the three- four- or five-year credits sometimes required in the engineering and structural trades. The British Government credit plan, it will be remembered, sometimes writes guarantee contracts for periods up to five years.

The retention of the British Government credit plan is also attributed in part to the fact that Government plans have been adopted in other European countries, particularly in Germany.

Arrangements with Banks.—One of the most interesting developments in Europe perhaps is the special attention that has recently been given to the insurance of bankers' bill of exchange risks. Exporters' credit insurance policies or guarantee contracts could be assigned to bankers, but they did not fully meet their requirements because of the invalidating clauses or conditions contained in them. In order to induce banks to discount bills of exchange more freely and on better terms, several special plans have recently been put into effect. Mention has already been made of the new "contract B" in which the British Government now gives an unconditional guarantee to banks and exporters that accepted bills of exchange if insured will be paid at maturity up to a maximum of 75 per cent of their face value. The conditions with reference to bad debts, etc., applicable to the exporter's merchandise transactions, do not apply to the payment of the bill of exchange to the bank.

The British Trade Indemnity Company also made provision in 1928 for export credit insurance acceptable to British banks. It issues a separate, independent contract to the bank at which bills of exchange are discounted. Although the credit insurance granted to the exporter may be invalidated and only covers the risk of insolvency, the bank is entitled to call upon the insurance company for payment of a bill of exchange within three months of the date of maturity. The insured exporter is required to sign an undertaking stipulating that when the insurance company is obliged to pay a dishonored bill of exchange the exporter shall on demand reimburse the insurance company together with interest from date of payment. The insurance company is authorized to withhold from the exporter all sums due and accruing under any and all policies issued to the exporter until such payments to banks are reimbursed. It is stated that British banks are actively supporting both this plan and the Government's new guaranty contract.

Under the German individual shipment plan supported by the Government, insurance companies issue certificates to banks in which they renounce, so far as the banks are concerned, the forfeiture measures appearing in the policy issued to the exporter. In case of the German collective insurance policy the insurance company certifies to the banks that the insurance company is "subrogated in the rights of the insured in such a manner that the assurance indemnity must be paid to the bank up to the amount of the claim of the bank upon the assured." The insurance company in some cases agrees to pay the bank more quickly than the exporter's policy provides; but if it makes payment to the bank that it would not have had to pay to the insured exporters, it retains its claim against the exporter for reimbursement.

Provision is also made under the plan supported by the German Government for the issue of a separate bankers' credit insurance policy under which the bank which finances an export transaction is insured against loss arising from nonpayment on the part of both the foreign customer and the German exporter up to ⅔ of the advance made to the exporter. Under this policy the insurance company is required to make payment to the bank only in case both buyer and exporter have become insolvent. This so-called Hamburg plan does not appear to be in use as generally as the certificate plan under which the exporter contracts credit insurance and the insurance company agrees to waive invalidating conditions in the protection granted by it to German banks. The reason given is that the exporter's interest is less definite because the Hamburg plan does not cover his own export credit risk.

General Methods of Operation.—In closing, it may be well to refer briefly to certain features of European credit insurance having to do with general methods of operation. Aside from the Government guaranty or insurance plans, the principal private insurance companies writing export credit insurance are incorporated companies. Mutual credit insurance associations or exchanges are not favored. A committee appointed by the British Department of Overseas Trade in 1925, for example, reported as follows:

> Such associations have been formed in the U. S., but it is the opinion of the majority of the representatives of trade from whom we have received evidence that these examples can not be successfully adapted to British requirements. It is generally held that the practice of American foreign trade differs considerably from that prevailing in this country, where the bulk of the export trade had its roots in the long distant past and is maintained, as it was built up, on the basis of intimate personal relations. A mutual scheme involves the disclosure of information which traders have obtained with difficulty and which they guard somewhat jealously. It is widely held by traders that these considerations would prevent the successful promotion of mutual schemes of credit insurance in this country.

Indeed, it is quite clear that one of the main difficulties of European export credit insurance is this very lack of adequate credit information, a handicap which could perhaps best be overcome by an interchange of ledger experience through mutual associations. European credit insurance companies have endeavored to make up this deficiency by interchanging credit information among themselves. The British Trade Indemnity Company and the Hermes Credit Insurance Bank of Germany began the practice several years ago and it has since then been extended to other European credit insurance companies. The general principle of interchanging credit information between insurance companies located in different countries was approved at the second International Credit Insurance Conference held at Paris in 1928, and a committee was appointed to study the Hermes Company's suggestion of an "Evidence Bureau" to serve as a joint clearing house for the interchange of credit information between all subscribing credit insurance companies.

European credit insurance companies are also considering the establishment of joint offices abroad to take charge of the settlement of losses for credit insurance companies, instead of each company doing so individually or depending upon the insured exporter to take all possible steps. There are at present a number of individual arrangements between certain foreign credit insurance companies under which they agree to look to the settlement of losses for each other. This practice was encouraged and approved in a resolution adopted at the second International Credit Insurance Convention.

Still another practice to which much attention is being given in Europe is the reinsurance of export credit risks covered by credit insurance policies. The British Trade Indemnity Company reinsures export credit risks in foreign credit insurance companies to some extent, such reinsurance, of course, having a direct bearing upon arrangements for the interchange of credit information and the settlement of foreign losses. It now also reinsures in a dozen or more of the domestic insurance companies of Great Britain, and the belief has been expressed that this reinsurance will in the future enable the company to embark on a much wider program.

Lastly, attention may be called to the extent to which credit insurance interests are beginning to coöperate with each other throughout Europe. Several widely attended international credit insurance conferences have been held. In 1928, moreover, a permanent International Association of Credit Insurers was formed for the general purpose of improving and extending export credit insurance. More specifically, its purposes are to coordinate the pioneer efforts that have thus far been made, to formulate general principles, to regulate conditions of the export credit insurance business, to solve any problem of international scope that may arise, to create an international intelligence service in respect to desirable statistics, legal information, and other export credit data, to protect members' interests abroad and to study ways and means for the development of export credit insurance.

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CHAPTER XXX

FOREIGN EXCHANGE RATES AND FOREIGN TRADE

An attempt will be made to limit the discussion of foreign exchange rates to those phases of foreign exchange that are of direct interest to exporters and importers of merchandise. No effort will be made to cover the entire field of foreign exchange from the viewpoint of foreign exchange bankers, brokers and dealers, exchange speculators and arbitrages, security investors, and other interests, the activities of whom are also influenced by foreign exchange operations.[1]

FOREIGN EXCHANGE DEFINITIONS

In international commerce the exporters and importers of any two countries think in terms of their own native currency. An American exporter, whether quoting prices in terms of the dollar or of the currency of a foreign country, expects eventually to receive dollars for his exported merchandise. The British exporter similarly expects to receive pounds sterling. The American importer may be called upon to settle on the basis of an agreed foreign currency, but he has in mind the number of dollars actually involved in his import transaction. As the prevailing foreign exchange rates between any two countries are the prices at which bills of exchange on one of these countries will sell in the currency of the other, they are, therefore, of direct importance to exporters and importers. They are expressed in terms of the price or rate at which the currency of one country is exchanged for that of another, but they are more specifically ''the price that the buyer has to pay for the particular kind of foreign exchange that he is purchasing.''[2]

When the currency of both countries is on a gold standard a definite ''par'' of exchange is computed on the basis of the weight of pure gold contained in the currency of the one divided by the weight of pure gold contained in that of the other country. But this par is of importance primarily to the foreign exchange banker for it is he, rather than the merchandise trader, who at times ships gold instead of selling drafts or bills of exchange. The merchandise exporter or importer is interested primarily in the actual rates of exchange between his country and specific foreign countries in which he is selling or buying goods. The exporter or importer, unless he has entered into an agreement that settlement shall be at par, is interested in the par of exchange only in that under normal conditions it limits exchange rate fluctuations. More specifically, when there is a free gold market in each of two countries, exchange rate limits are set by the cost of shipping gold or so-called "gold points." With a sterling exchange par of $4.8665, the actual rates of exchange will not normally rise higher than this par of exchange plus the cost of shipping gold; and they will not normally decline below par minus the cost of shipping gold. Wider fluctuations would cause foreign exchange bankers to ship gold rather than to sell drafts. The actual cost of shipping gold varies with the current cost of packing, cartage, insurance and freight, and current interest rates. When, however, for any reason, there is not a free gold market in each of two countries between which an exchange rate is quoted, these gold point limits will not be operative, for under such abnormal conditions foreign exchange bankers may be unable to make gold shipments.

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[1] *See* Chapter I.

[2] Ira B. Cross, *Domestic and Foreign Exchange*, p. 129.

When both countries are not on the gold standard there are no such rather definite gold points between which exchange rate fluctuations are limited. When one of the countries is on the gold standard and the other on a silver standard, "the rate of exchange is mainly a matter of the price at which silver is selling in the gold standard country,"[3] and no definite gold par can be computed. Gold can be shipped from the gold standard country as bullion but not as money, and silver can conversely be shipped from the silver to the gold standard country as bullion; and the shipments will move as other commodities do, without fixed relative prices. Some silver currency countries have, however, adopted the so-called "gold exchange standard" in their international transactions, their silver currency being maintained at a fixed gold value.[4] Where this has been done a par of exchange is published.

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[3] Franklin Escher, *Foreign Exchange Explained*, p. 176.

When one of the two countries is on an inconvertible paper currency standard there is likewise no definite par of exchange. Gold cannot be shipped from the gold standard to the paper standard country as money, and the paper currency of the latter cannot enter the circulating medium of the gold standard country. There is nothing comparable to the gold points that fix the upper and lower limits between which the exchange rates of two gold standard countries fluctuate. ''In the paper money country the upper limit of exchange in the other cannot much exceed the cost of purchasing gold with paper plus the cost of shipping the gold,''[5] but this does not in itself reduce exchange fluctuations to narrow limits. When the amount of paper currency circulating in the paper standard country remains unchanged during a given period, the exchange rates between this country and the gold standard country will normally fluctuate in accordance with the supply of, and the demand for, exchange springing from the remittances being made between the two countries on account of the merchandise and invisible transactions requiring settlement. Exchange rates, even when the volume of paper currency remains steady, may fluctuate widely because of the absence of definite gold point limits, and should the currency of the paper standard country be inflated or deflated during a given period, it is obvious that further fluctuations may be caused by the very fact of inflation or deflation, for exchange rates currently reflect the relative values of the gold and paper currencies of the two countries. During the post-War period, for example, when many foreign countries were not on the gold standard, violent fluctuations in the exchange rates of the United States on several European countries were mainly due to, or contributed to by, the inflation of their paper currencies. Under such unstable monetary conditions, the current demand for, and the supply of bills occasioned by, merchandise exports and imports and other international business transactions did not primarily cause the wide fluctuations and appalling depreciation of exchange rates, and failed utterly to hold them within a narrow range.

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[4] J. M. Keynes, *Indian Currency and Finance*, pp. 30-31. "The gold-exchange standard may be said to exist when gold does not circulate in a country to an appreciable extent, when the local currency is not necessarily redeemable in gold, when the Government or Central Bank makes arrangements for the provision of foreign remittances in gold at a fixed maximum rate in terms of the local currency, the reserve necessary to provide these remittances being kept to a considerable extent abroad."

[5] H. G. Brown, *International Trade and Exchange*, p. 143.

In the absence of the gold standard in one of the countries it does not, however, follow that exchange rates will fluctuate widely at all times. The several factors which influence exchange rates may either steady them or cause them to fluctuate violently. These factors, which will be defined more fully subsequently, also influence exchange rate fluctuations between two gold standard countries, both having a free gold market, but the fluctuations in this case will normally revolve around a par of exchange within limits set by the cost of shipping gold.[6]

At any given time exchange rates on a particular country will vary according to the character of the bill of exchange—whether it is a banker's bill or a commercial bill and, if the latter, whether it is a clean or a documentary bill; whether a documentary bill is drawn for payment or for acceptance, and whether the collateral behind it is readily saleable or not. In the case of commercial bills the exchange rates paid currently will also vary according to the credit standings of the drawer and drawee. This factor does not influence the rates on bankers' bills, except slightly at times in the case of long bills drawn at sixty and ninety days' sight.[7] The rates paid for either bankers' or commercial bills will vary according to whether they run for long or short periods. Different rates of exchange are paid for bankers' bills according to whether they are cable transfers, short bills, or long bills; and different rates are paid for short than for long commercial bills.

A distinction is also to be drawn between "spot" and "future" exchange. When an importer, for example, purchases spot exchange he acquires a definite amount of foreign exchange at the time of purchase for which he pays the rate then quoted for his particular bill of exchange. When he purchases a future exchange contract he agrees to purchase a given amount of exchange on or before a fixed date in the future and then to pay for it at the rate specified in the future contract. This future rate may be higher or lower than the spot or current rate, "depending on which way the banker thinks the market will turn."[8] Usually, however, it is the rate for spot exchange plus a small margin "due to the fact that the importer or other operator who must assure himself of possession of future currencies at definite rates is willing to pay a slight premium over spot rates."[9]

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[6] For an account of exchange rates between two countries both of which are on a paper currency basis, *see* F. W. Taussig, *International Trade*, Chap. XXVI.

[7] Escher, *op. cit.*, p. 48.

FACTORS INFLUENCING EXCHANGE RATE FLUCTUATIONS

Foreign exchange rates fluctuate almost continuously for they are constantly subject to influences some of which tend to raise and others to lower them. Between gold standard countries the fluctuations are normally limited by the gold points previously defined, but between these limits constant fluctuations occur. In the absence of gold embargoes, paper currency inflation, or similar abnormal disturbing factors, these fluctuations are caused basically by the supply of, and the demand for, foreign exchange. A maze of merchandise and other business transactions are conducted between the United States and foreign countries, and from them are derived the remittances that influence the supply of, and the demand for, foreign exchange. These remittances vary constantly and are not the same between the United States and any two foreign countries. Low exchange normally indicates a strong demand for United States dollars or a heavy offering of pounds sterling, francs, marks, lire, or other foreign money. High exchange conversely indicates a strong demand for foreign currency or a heavy offering of American dollars. The transactions comprising the credit items of the balance of payments between the United States and a foreign country "tend to increase American holdings of foreign exchange and/or to reduce foreign holdings of dollar exchange; the debit items have, of course, the reverse effect."[10]

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[8] Cross, *op. cit.*, p. 314.

[9] Ralph Dawson, "Protection against Exchange Losses," in *Proceedings, Ninth National Foreign Trade Convention*, p. 139.

[10] *The Balance of International Payments of the United States in 1928*, United States Department of Commerce, p. 61. For balance of payments of United States with all foreign countries as a group, *see* Chapter I, Table I. "There are a few rather small per contra corrective items, so the balance of payments as now compiled is not exclusively a schedule of foreign exchange transactions."

The principal items normally constituting the supply of foreign exchange and therefore tending to reduce exchange rates are American exports, American stocks and bonds sold abroad, interest and dividend payments on foreign securities held in the United States, foreign securities resold to foreigners, short-term loans made in the United States by foreigners, war debt receipts of the United States Treasury, and payments due Americans for shipping, insurance, and other services. But all of the remaining business transactions—visible and invisible—tending to increase American holdings of foreign exchange or to reduce foreign holdings of dollar exchange will tend to reduce foreign exchange rates.

The principal items normally constituting demand for foreign exchange and therefore tending to increase exchange rates are merchandise imports into the United States, foreign stocks and bonds sold in the United States (including all American investments abroad and loans to foreigners), American securities bought back from foreigners, interest and dividends on American securities held abroad, tourist expenditures, immigrant remittances and payments to foreigners for services. All other miscellaneous transactions causing a demand for foreign exchange will add to the downward tendency of foreign exchange.

These various forces of supply and demand are now more numerous and complicated than in the past. For many years it was normally predicted that when merchandise exports exceeded merchandise imports exchange would be low and that every widening of the gap would cause a downward movement. When the great invisible items of the balance of payments appeared this prediction became less accurate. Increasing American investments abroad and other heavy remittances to foreigners may for a while at least steady exchange rates and counteract the effect of a great excess of merchandise exports.

In looking upon the international balance of payments as a general exhibit of foreign exchange transactions, other factors of supply and demand should not be overlooked. The Department of Commerce states specifically that its published balance of payments "does not include all transactions involving the sale or purchase of dollar exchange. Dollar exchange is frequently sold or bought in arbitrage operations, solely to profit from disparities in quotations of a given currency in two or more countries. A foreigner may pay another foreigner for an invoice of goods quoted in dollars. The service and redemption of foreign bonds issued in dollars, floated in this country, and later sold to foreigners would involve dollar exchange, but the transaction should not appear in the American balance of payments. Foreigners borrow or repay short-term dollar funds and Americans borrow or repay short-term funds in foreign currencies on a huge aggregate during the year, but only the changes in the year-end volume outstanding of these short-term loans are entered in the statement.''[11]

Foreign exchange rates, however, are not always dominated by these normal forces of supply and demand. Suspension of gold payments followed by inflation of paper currencies, enormous floating debts and appalling total public debts, industrial derangements, and, in some instances, Governmental instability and doubt as to their national future, undoubtedly caused violent fluctuations and greatly depressed exchange rates in certain of the European countries during the post-War period. A mere readjustment of merchandise exports and imports would not have cured the abnormal exchange situation of those countries. Little was accomplished until steps were taken to bring about currency reform, balanced state budgets, debt funding and reparation arrangements, and general economic and governmental stability. Exchange rates are sensitive to any condition that destroys confidence.

It should also be remembered that there are foreign exchange speculators. While the wide fluctuations in exchange rates on some of the European countries during the post-War period were not basically due to speculation in futures, speculative trading may, at times, have contributed to them. At other times, exchange speculation may have steadied exchange rates somewhat, for speculators who have sold future contracts may later appear as an important group of purchasers.

Exchange rates are also influenced by the money market in the United States and foreign countries, because money rates influence the flow of funds and consequently the supply of, and demand for, foreign exchange. Rising money rates in the United States tend to draw foreign bank funds to this country and bring home American bank balances held abroad, and the effect is to depress exchange rates. Declining money rates in the United States tend to reverse this flow of bank funds and to raise exchange rates. Similarly a rise in money rates in a foreign money market tends to draw foreign bank funds held in the United States and available American bank balances to the market, and a decline in money rates abroad tends to cause a reverse flow of bank funds. In the one case exchange rates tend to rise, and, in the other, to fall. It does not follow that every fluctuation in the money market will promptly be reflected in foreign exchange rates, for other factors may retard or delay the flow of funds, and other factors are also constantly operative in the foreign exchange market, but changing money rates frequently do cause sharp fluctuations in foreign exchange.

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[11] *Ibid.*, p. 61.

The exchange rates on long bills, moreover, are influenced by discount rates. "The discount rate prevailing in foreign markets is an important matter that is kept in mind by every exchange dealer in purchasing acceptance bills. If a New York dealer purchases a long bill and sends it to London when the discount sale is high, he will receive less when it is discounted than if the discount rate had been lower."[12] Discount rates also influence largely the spread between sight exchange and long bills.

EFFECT OF EXCHANGE FLUCTUATIONS UPON PRICE QUOTATIONS OR FOREIGN TRADE PROFITS

When the exporter quotes an export price, or receives an offer in terms of foreign currency, he is concerned very directly with exchange rate fluctuations that may occur before he receives payment. When quoting foreign currency prices, the exporter has in mind a certain number of American dollars, but as his customer will pay in pounds sterling, marks, francs, pesos, or other agreed foreign currency, the remittance in terms of dollars will depend upon the rate of exchange. The exporter accepts the risk of exchange fluctuation, and, unless he takes steps to protect his expected profits, a decline in exchange may reduce them or even convert them into loss. When he quotes his export prices in terms of American dollars this direct risk is shifted to the foreign importer, who, unless he takes steps to protect himself against the risk of an unfavorable exchange fluctuation, may find himself obliged to pay a higher price on the basis of his own currency than he anticipated.

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[12] Cross, *op. cit.*, p. 347.

The American exporter, when quoting prices in foreign currency, may, in case he believes that exchange fluctuations will be slight, or believes himself capable of judging the course of exchange, deliberately accept the exchange risk. He is speculating on his merchandise export transaction, for his profits will not be known until payment has been received. He will be more inclined to do this if exchange rates have recently been quite stable, and if the character of his wares is such as to permit of rather wide price margins. He may, indeed, be able to take the exchange risk into account in quoting his export prices, but in doing so he may limit the volume of his sales. When exchange fluctuates within a comparatively narrow range, the exporter may be able to induce the foreign importer to agree upon a fixed or guaranteed rate of exchange, but arrangements such as these may be unobtainable at the very time when the exporter is most anxious to protect his profits. When the exchange risk is greatest the exporter who quotes foreign currency prices may find his only safeguard in the open exchange market where foreign currency bills for future delivery are bought and sold.

Except in case of shipments to countries where there is no open exchange market for future contracts, the exporter may hedge or protect his export profits, in a large measure, by selling future contracts. The exact manner in which he will avail himself of the future contracts will depend upon the terms of sale, the character of the merchandise, and the location of the shipper. The exporter may, when he closes his export contract, be able almost immediately to sell his foreign currency bill for future delivery to his banker. Later, when he has obtained his bill of lading, he will deliver his draft and receive payment on the basis of the rate at which it was sold for future delivery. He has, in effect, availed himself of a fixed rate of exchange. Or the exporter whose bill of exchange is to be forwarded for collection may, when he closes his export contract, be able to sell an equivalent or nearly equivalent amount of foreign currency for delivery in the future at the time his bill matures. Should the exchange rate decline, meanwhile, he will in this case receive fewer American dollars on his merchandise transaction than he anticipated when closing his export contract, but he will be able to cover or buy back at a reduced rate the foreign currency that he had sold for future delivery. The profit derived from this future exchange transaction will about balance the amount of the reduction in the remittance on his export transaction, and he will again have assured himself of a fixed rate of exchange. Another variation in the use of the exchange future arises when an exporter who anticipates heavy exports to be sold abroad in a steady volume but without long-time advance contracts of sale, ''sells for future delivery over a long period his anticipated proceeds in foreign moneys.''

The cost of exchange hedging transactions to the exporter is small. The banker's profits, in general, result from a slight spread between his buying and selling rates.[13] ''For established customers of very high standing the contract may be entirely unprotected, regardless of the fluctuations of the rate in the period before delivery. In other cases, the customer may be asked to put up security if the rate goes against him during the period. In the usual case the customer signs a contract under which he obligates himself to cover fluctuations from his established contract price. And in some cases the customer provides collateral in advance at the time of making the contract, the amount of the collateral based upon the probable maximum fluctuations during the life of the contract. This collateral will obviously vary with the stability of the currency. In any event the seller or purchaser of a future makes very little outlay for his contract and in many cases none at all.''[14]

The sale of future contracts in many instances affords real protection to the exporter, but it does not always eliminate the exchange risk entirely because he may be unable to close his export sales contract and sell his future contract at exactly the same moment. Nor is it possible to hedge all export transactions. Bankers have at times withdrawn from future exchange operations in particular foreign currencies.

When the exporter quotes his prices in terms of the American dollar the exchange risk is shifted to his foreign customers, who may take steps to protect themselves against unfavorable exchange fluctuation. American importers when buying foreign merchandise in terms of foreign currencies similarly are faced by possible loss of profit resulting from unfavorable exchange fluctuations. The American importer, knowing that he will have to deliver a given amount of foreign currency at a future date, may purchase spot exchange when he orders his imported merchandise. This will eliminate the danger of a rise in the exchange on the importing country, but in doing so he ties up his funds until the merchandise is received by him. He may postpone his spot exchange purchase until the ordered goods have been shipped, but he will, nevertheless, be tying up funds for an appreciable period, and, as exchange may rise during the period between dates of ordering and shipping, he no longer is certain of eliminating the entire exchange risk. He may purchase spot exchange from time to time without reference to goods actually ordered, so as to have on hand adequate exchange to meet future import commitments, the supposition being that he will buy exchange when, in his judgment, the exchange rate is low. His judgment may, however, be incorrect, and, if so, he will become aware that he has been speculating in exchange. In any case this practice also is expensive because he is tying up funds in spot exchange.

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[13] *See* Dawson, *op. cit.*, p. 139.

[14] *Ibid.*, p. 140.

The American importer, therefore, when purchasing imports in terms of a foreign currency for which there is a market for future exchange, may seek to hedge his import transactions by purchasing future exchange contracts at the time he obtains his import credit. He may not be required to tie up any funds whatever, and in case a deposit is required by the banker, the amount will be less than that involved in a purchase of spot exchange. Yet he may be assured that, when called upon to make payment for his imported wares, the necessary foreign currency will become available at a price determined at the time he purchased the future contract. The protection afforded may not be perfect,[15] but it is substantial and inexpensive.

The most complete safeguard against unfavorable exchange fluctuations is, of course, enjoyed by American exporters and importers when settlement is to be made in American dollars. They may, however, in such case retain a less direct interest in exchange fluctuations. Fluctuations following the closing of the sales contract may be so unfavorable that the foreign customer of the American exporter may, as a way out of his difficulty, refuse to accept delivery, or, having accepted the goods, he may find himself unable or unwilling to meet his financial obligation. The foreign importer may have failed to take steps to protect himself against unfavorable exchange fluctuations and as a result find himself under a serious handicap; or he may have engaged in unfortunate exchange speculation. Exchange rate fluctuations may in effect increase the exporter's credit and commercial risks. The exporter's interest may, of course, be influenced by the method of financing the export transaction that was agreed upon.[16] The American importer who has purchased foreign goods in terms of American dollars may have an indirect interest in exchange rate fluctuations owing to the possibility that losses resulting from exchange fluctuations may induce the foreign exporter to delay shipment or fail to make delivery of the ordered merchandise. Although the American importer will not make payment, and will not suffer a direct loss from exchange rate fluctuations, the orderly conduct of his import business is disrupted, and, in case he has resold any of the ordered wares in advance of their receipt, he may be embarrassed. When purchasing abroad in terms of American dollars the importer is indirectly interested in having the foreign exporter take proper steps to safeguard himself against unfavorable exchange fluctuations.

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[15] *See* George B. Roorbach, *Import Purchasing,* p. 143.

EFFECT OF DEPRECIATED FOREIGN EXCHANGE UPON EXPORTS AND IMPORTS

Although the interest of American exporters and importers centers chiefly in the risk incident to exchange rate fluctuations occurring after their export or import merchandise contracts have been closed, they have at times also been concerned with the influence exerted by depreciated exchange rates upon their current and future trading relations with particular countries. Does a severe decline in the exchange rates on certain countries such as occurred during the post-War period tend to handicap the American exporter and encourage imports from abroad? This question is not apt to arise as between the United States and other gold standard countries because the gold points normally prevent severe depreciation in their exchange rates; but it was amply demonstrated during the post-War period that the exchange rates of the United States on a paper currency country may depreciate to an amazing extent. It was at that time stated repeatedly that the American exporter was handicapped not only by violent exchange fluctuations but by the very fact of depreciation, and that this depreciation conversely benefited the foreign exporter and the American importer.

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[16] *See* Chapters XXVI and XXVII.

If commodity price levels were promptly readjusted as exchange rates depreciate and a so-called international purchasing power parity were maintained, depreciated exchange would have little effect upon merchandise exports and imports. Such a readjustment, however, does not always take place promptly. Prices and exchange rates may in the long run gravitate to a common level, but price levels may move more slowly and a considerable lag may develop. In the absence of paper currency inflation the exchange rates of the United States on an irredeemable paper currency country are governed mainly by the respective volume of remittances arising from merchandise exports and imports and the invisible items entering into the international balance of payments. Exchange rates may, therefore, depreciate very substantially, while the general commodity price level within the paper currency country, its volume of paper currency remaining unchanged, may fail to rise. Under such conditions exports from the United States to the paper currency country are handicapped because their prices, if quoted on the basis of the current depreciated exchange rate and with a view to obtaining the number of gold dollars normally expected, will appear high to the foreign importer in comparison with the general level of the domestic prices prevailing in his country and higher than the import prices formerly paid by him. If the American exporter, on the contrary, should quote his prices so as to keep them in line with the domestic price level of the paper currency country, or, if he should accept price offers from abroad on that basis, he will be receiving less in gold dollars than before the exchange rates depreciated. Imports received in the United States from the paper currency country, on the contrary, will be encouraged somewhat because, under the conditions here assumed, the foreign exporter will be receiving more in terms of his own currency than before the exchange depreciation occurred, and high export prices in comparison with the prices prevailing in his domestic market.

The exchange situation in many countries, however, was complicated by paper currency inflation. The increasing volume of paper currency became the principal cause of severe exchange rate depreciation and at the same time raised the domestic price level and production costs in the paper currency countries. But domestic prices and production costs, for several reasons, did not rise as promptly as exchange rates depreciated. (1) Prices and production costs are naturally more sluggish than exchange rates. (2) For a while the governments of some of the paper inflated countries in effect paid subsidies. The German Government, for example, was slow in promulgating adequate taxes and effective measures for collecting them, and it paid a "portion of the wages of the German workmen, through subsidies on food supplies; through rent laws which made the owning of real estate a liability instead of an asset; through railway freight and passenger rates that converted a large pre-War revenue into billions of marks of deficit; through postal telegraph and telephone rates that meant billions of deficits annually."[17] (3) Production costs were held down temporarily because industries with outstanding contracts for raw materials before currency inflation began were in many instances receiving raw materials at low cost. Current exchange fluctuations, moreover, continued to be influenced by the fluctuating demand for exports and imports and the varying remittances due to the invisible transactions of the international balance of payments.

Commodity prices and production costs in some of the paper currency countries were not in line with their foreign exchange rates during the early period of currency inflation. Later their depreciated paper currencies brought about heavy increases in domestic commodity prices and production costs; but for a short period of time exports from the United States to these countries were handicapped somewhat and imports from them were encouraged. The depreciated exchange, until fully comparable price and cost readjustments occurred, also strengthened somewhat the hands of the exporters of these countries in their competition with American exporters in other world markets.

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[17] Charles M. Muchnic, "Depreciated Currency a Factor in Foreign Competition," *Proceedings of Ninth National Foreign Trade Convention*, p. 42.

But the effect of depreciated exchange upon exports and imports can readily be overemphasized. The paper inflated countries with their low exchange rates did not by any means cease to import from the United States and their exports did not flood the American market or other foreign markets to which American exports were shipped. Neither exports nor imports by any means recovered their pre-War level during the paper currency inflation period. Imports from Germany increased substantially in 1922 and 1923, while exports to Germany from the United States declined somewhat, but the gap between imports and exports in our trade with Germany continued to be heavily on the side of exports. Taking Germany as an example of the paper inflated countries of Europe during the post-War period, it soon appeared that depreciated exchange alone could not control German exports and imports. Germany's production was far from normal and her domestic and international business was unstable. The very inflation of currency which was so largely responsible for depreciated exchange, was an important cause of these unfavorable business conditions. Soon many raw materials of industry had to be imported at import prices which began to advance production costs and prices within Germany, and the inflated currency of course affected prices and production costs substantially even while Government subsidies and restrictions were in effect. Later, the effect of paper inflation upon prices became more pronounced and German prices began to adjust themselves to exchange rates. The absence of the former superior steamship services to so many of the competitive foreign markets also was at that time a trade factor of real importance. The marked improvement in German production, domestic and international commerce, and general economic welfare occurring after the Dawes plan had brought into being currency reform, stabilized and raised exchange rates and placed German reparations and industries on somewhat more of a business basis, is significant in any discussion of the relation between depreciated foreign exchange and international commerce.

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CHAPTER XXXI

FOREIGN INVESTMENTS AND FOREIGN TRADE

The United States was early recognized as an attractive field for investment. Until the people of the country had accumulated sufficient capital to undertake for themselves the development of their vast resources, great demand was made upon the investors of other nations.

Citizens of England, France, Spain, and Holland, the trading nations of the early period of our national history, invested funds in the new country for the purposes of raw material development and market exploitation. With the extensive canal and turnpike construction, beginning in 1820, foreign investments came to the United States in increasing volume. As early as 1839, the total foreign holdings were estimated to have been about $200,000,000. The era of railroad development, beginning in 1840, opened a new period in American borrowings of foreign capital. British and Dutch capital came to our shores in increasing volume and German purchases of Federal Government bonds were important.

As the United States developed commercially and industrially, foreign capital entered a wide range of economic activity. In addition to government and state bonds, purchases were made of railroad, public utility, mining, and manufacturing securities, and of agricultural enterprises.

In 1910, Sir George Paish, in his report to the United States Monetary Commission, estimated that foreign holdings of United States securities, properties, and resources amounted to $6,500,000,000. American investments in foreign countries were estimated at the same time to have been $1,500,000,000. If these estimates are correct, marked changes in the financial situation of the country occurred between 1910 and 1914. There is seen in the reduction of foreign holdings of American securities and resources as of the latter date, the first step which this country made toward the position of a large foreign lending people. During the same period, American holdings of foreign securities and properties increased.

The huge international investments of the leading nations of the world as they existed just before the War may be seen from the large amounts held. Great Britain at that time is estimated to have held investments in foreign countries to the extent of eighteen to twenty billion dollars. France was second with eight to ten billion dollars; then followed Germany with five to six billion dollars, Holland and Italy with three billion dollars each, and Belgium with two billion dollars.

THE UNITED STATES AS A FOREIGN INVESTING NATION[1]

The total foreign investments of the United States as of 1914 are generally estimated to have been from two to two-and-one-half billion dollars. At the same time, foreign holdings of United States securities and investments represented about four to five billions.

The War marked the change of the United States from this debtor position to that of a great creditor nation. It is generally held that the War accentuated rather than caused this change which had already become evident by the increasing volume of foreign investments made during pre-War years by citizens of the United States.

According to the United States Department of Commerce, the total value of foreign securities publicly offered in the United States from 1914 to 1929 was as shown in Table XV.[2]

Adding to the net indicated (twelve billions) the estimate of two-and-one-half billions as outstanding in 1914, the total net foreign security investment of the United States at the end of 1929 is indicated as being about fourteen-and-one-half billions of dollars.

Moreover, there are additional financial transactions which should be included in a study of American foreign investments. These include securities placed privately in the United States, direct American purchases of foreign property not involving the sale of securities, acquisition of foreign securities already outstanding, and purchases of foreign internal issues, both stocks and bonds.

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[1] In the statistics of foreign investments, no account is taken of United States Government loans to foreign countries.

[2] *The Balance of International Payments of the United States in 1929*, Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 698, p. 48.

TABLE XV

TOTAL FOREIGN SECURITIES PUBLICLY OFFERED IN THE UNITED STATES

Period	Number of Issues	Total Nominal Capital	Estimated Refunding to Americans	Estimated New Nominal Capital
1914	26	$44,670,288	$655,000	$44,015,288
1915	80	817,529,272	13,675,000	803,854,272
1916	102	1,159,601,264	3,700,000	1,155,901,264
1917	65	720,297,150	37,650,000	682,647,150
1918	28	23,465,000	2,600,000	20,865,000
1919	65	771,044,700	379,257,300	391,787,400
1920	104	602,937,986	105,500,000	497,437,986
1921	116	692,412,963	69,105,083	623,307,880
1922	152	863,048,284	99,421,300	763,626,984
1923	76	497,597,350	77,000,000	420,597,350
1924	120	1,217,217,937	247,993,500	969,224,437
1925	164	1,316,166,150	239,700,000	1,076,466,150
1926	230	1,288,459,182	162,978,000	1,125,481,182
1927	265	1,577,414,260	240,654,000	1,336,760,260
1928	221	1,489,361,680	238,410,413	1,250,951,267
1929	148	705,767,681	34,536,875	671,230,806
TOTAL, 1914-1929	1,962	13,786,991,147	1,952,836,471	11,834,154,676

Dr. Max Winkler, Vice President of Bertron, Griscom and Company, Inc., has brought together this broader survey,[3] as follows:

TABLE XVI

TOTAL FOREIGN CAPITAL FLOTATIONS IN THE UNITED STATES, 1915-1929

Year	Amount	Year	Amount
1915	$1,275,857,000	1923	543,639,764
1916	1,388,725,000	1924	1,589,130,900
1917	651,780,000	1925	2,206,018,650
1918	520,717,000	1926	1,891,963,861
1919	620,016,300	1927	2,071,954,109
1920	576,322,000	1928	2,096,041,810
1921	625,820,000	1929	1,465,958,000
1922	869,992,000		

Considering all investment items which can in any way be ascertained or estimated, Dr. Winkler finds that at the end of 1929, the total foreign investments of the United States amounted to $16,604,052,000. This is more than $2,000,000,000 in excess of the totals of security issues only as presented in Table XV.

Turning to the amount of foreign capital now invested in the

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[3] Foreign Policy Association Information Service, Vol. III, Special Supplement No. 3; Vol. IV, Special Supplement No. 1; Vol. V, Supplement No. 1; Vol. VI, Supplement No. 1.

United States, considerable difficulty is at once encountered in procuring reliable data. Since no census of such holdings has ever been taken, only estimates are available and these vary widely.

The 1914 estimate of four to five billion dollars of foreign capital invested in the United States is generally accepted. It is known that with the outbreak of hostilities in Europe, the flow of foreign capital to our shores ceased. At the same time, aided by the swelling war prosperity which we experienced and the increasing pressure brought to bear on foreign investors to repatriate their funds for war financing, American citizens repurchased vast quantities of American stocks and bonds held by foreigners.

With the cessation of hostilities, foreign money again entered our investment fields. The period of currency depreciation which seriously affected many countries during the post-War readjustment, made of the United States a haven for the safekeeping of funds. Later, as our prosperity continued and our security values were leaping forward, foreign investors and speculators, respectively, turned with renewed vigor to the United States.

A record of the gross investments made by foreigners in United States securities, in so far as they may be estimated, demonstrates the upward swing of recent years:[4]

1921	$ 48,000,000	
1922	216,000,000	
1923	412,000,000	
1924	319,000,000	
1925	411,000,000	
1926	636,000,000	
1927	891,000,000	
1928	1,503,000,000	
1929	1,537,000,000	(unrevised)

As in the case of American foreign investments, there are additional items which should be added to security issues in order to reach a reliable figure. With these considered there is believed to be now in excess of $7,000,000,000 of foreign capital invested in the United States, of which more than one-half consists of permanent holdings.

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[4] *The Balance of International Payments of the United States in 1927*, Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 552, p. viii; same study for 1928, Trade Information Bulletin 625, p. vii; same study for 1929, Trade Information Bulletin 698, p. vii.

Estimated Net Movement of Capital.—The figures heretofore considered, both for American and foreign investments, are gross except for refunding issues of securities. Certain deductions should be made for underwriters' commissions, securities issued below par, bond-redemption and sinking-fund payments, and resale of securities and of direct investments previously made. Some of these items are looming quite large in the balance of international payments. For example, foreign stocks and bonds resold to foreigners amounted in 1926 to $286,000,000; in 1927 to $398,000,000; in 1928 to $451,000,000; and in 1929 to $442,000,000. On the other hand, American stocks and bonds bought back from foreigners aggregated in 1926, $509,000,000; in 1927, $661,000,000; in 1928, $1,015,000,000; and in 1929, $1,080,000,000. These comprise but two of a number of disturbing factors.

By considering the interchange of all items known to affect the amount of securities and direct investments entering into the international balance of the United States, it is possible to estimate the net movement of capital. This in a broad sense is comparable with the balance of trade which is procured from the statistics of merchandise exports and imports and which was discussed in Chapters I and III.

With a view to realizing the actual effective balance of investment movements during recent years, the following table (No. XVII[5]) is presented.

Recognizing the insignificance of these net figures as compared with the gross amount of American foreign capital investments in any one year, the Department of Commerce makes the following observation:

"The American nation having now seen five or six successive years in which the par value of foreign capital issues was over a billion, it is rather surprising that during the seven years ended with 1928 our net export of capital was only $3,253,000,000 (as estimated). We have actually lent on balance less than our tourists have spent—and far less than foreigners have paid us for interest and dividends."[6]

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[5] *The Balance of International Payments of the United States in 1928*, Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 625, p. 57; same study for 1929, Trade Information Bulletin 698, p. 66.

TABLE XVII

Net Capital Movement (Long- and Short-Term)

(In millions of dollars)

New Private Loans, Investments, and Deposits	1922	1923	1924	1925	1926	1927	1928	1929 (unrevised)
Net increase in American long-term investments abroad (par value) . .	−823*	−258	−869	−872	−808	−972	−1,318	−808
Deduct bond discounts and underwriters' commissions on above	+101†	+ 48	+125	+119	+121	+119	+ 122	+ 26
Net cash payments for above	−722	−210	−744	−753	−687	−853	−1,196	−782
Net increase in long-term foreign investments in United States	+ 37	+240	+ 11	+193	+147	+158	+ 488	+396
Change in net debt of American banks to foreigners . . .	+375	+ 3	+216	− 61	+359	. . . . .	− 226	+ 13
Net capital movement (long- and short-term)	−310	+ 33	−517	−621	−181	−695	− 934	−373

* Export of capital from the United States equals — (minus).
† Import of capital into the United States equals + (plus).

Geographical Distribution.—According to Dr. Winkler's compilations, United States foreign investments in 1929 as compared with 1913 were distributed as follows:[7]

	1929 (Per Cent)	Millions of Dollars	1913 (Per Cent)	Millions of Dollars
Europe	31	5,107	13	350
Canada	26.5	4,389	28	750
South America	17	2,786	4	100
Central America and West Indies	17.5	2,937	46	1,200
Australasia	5.5	926	7	175
Miscellaneous	2.5	459	2	50
Totals	100	16,604	100	2,625

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[6] *The Balance of International Payments of the United States in 1928*, Trade Information Bulletin 625, p. 58.

[7] Foreign Policy Association Information Service, Vol. V, Supplement No. 1; Vol. VI, Supplement No. 1.

The changes in the direction of America's foreign investments are clearly discernible from this table. The most notable alterations are found in the growth of Europe to first rank, the fourfold increase in the position of South America and the decline of the Caribbean area in relative importance.

The changes are indicative of the altered status of the United States as a world power. Before the War, the investments flowed into the areas of the world which first came within the influence of our "economic penetration." The Monroe Doctrine, especially as applied by President Roosevelt, had placed this country in an important relationship with the Caribbean. American interests felt relatively at home in this sphere and the sugar, fruit, mining, and petroleum interests, as well as the investors in governmental securities, lent comparatively large sums here. In the same way funds flowed freely into the Dominion of Canada where an economic and racial similarity bid American investments welcome.

Between these two areas bound to the United States by propinquity and political ties, nearly three-fourths of our foreign investments had found lodgment. Half of the balance was in Europe. Australasia, although of relatively slight significance, claimed nearly twice the volume of investments placed in South America.

While our Central American, West Indian, and Canadian loans have grown enormously in actual volume, their relative position in the ledger of the United States has followed the direction shown in the table. With the rehabilitation needed in Europe and the close ties established during the War with South America, it is but natural that the bulk of our investment expansion in the decade and a half here considered should have gone to these areas.

At the present time investments in Germany alone are nearly as great as were our total foreign investments before the War and comprise almost 50 per cent of our holdings in all of Europe. Substantial purchases have also been made of French, Italian, Norwegian, and Belgian securities. The new countries of Europe have received fairly large sums of American capital.

In Australasia, Japan accounts for the bulk of investments, with Australia and Netherlands East Indies also receiving a considerable share.

With respect to Central American countries and the West Indies it should be noted that only the enormous expansion of total foreign investments has caused these areas to decline relatively in the portfolio of the United States. The volume of investments, while flowing largely to outside areas, nevertheless raised our investments there by over 200 per cent. Holdings in Mexico have doubled and Cuban properties and securities held here are nearly seven times as great as in 1913.[8]

At the same time, such changes pale in significance when compared with the growth of Argentine investments from $40,000,000 to $610,000,000, an increase of over 1400 per cent; Colombian holdings from $2,000,000 to $260,000,000; Brazilian from $50,000,000 to $476,000,000; and similar enormous changes in other South American countries.

While maintaining approximately the same relative position as before the War, the Dominion of Canada has kept pace with the general growth in total foreign investments. Always a leading borrower of American capital, it stands in first place among all nations in which we hold property and securities.

Types of Investments.—Foreign investments may consist of bonds, stocks, or direct purchases of foreign properties. Each represents a different relationship, as is readily observed from their establishment of a creditor, ownership, or entrepreneur status, respectively.

On the basis of the foreign security offerings made in the United States market during the past decade and a half, the conclusion may be drawn that ordinary corporate issues comprise about 30 per cent and government issues, including corporate securities officially guaranteed or controlled, contribute the balance. In recent years the tendency has been to prefer corporate stocks to bond issues. When the properties acquired by means of direct investment without the use of securities are added, the position of the United States as a proprietor of, and entrepreneur in, world resources becomes surprisingly great.

RELATION BETWEEN FOREIGN INVESTMENTS AND FOREIGN TRADE

It is a commonly stated principle that "trade follows the dollar." This carries with it the imputation that money invested in foreign countries will give rise to an enhancement in trade. As expressed by Dr. Julius Klein—"we extend credits, orders pour in, goods move out."[9]

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[8] *See* Max Winkler, *Investments of United States Capital in Latin America* (World Peace Foundation, 1929).

It is well to emphasize the economic principle that balances between nations may be settled by the movement of goods, services, or precious metals, or by international exchange operations. The full significance of this is best illustrated in the study of international balances of payments.[10] Here, it will be recalled, the computations for the United States show that merchandise exports and imports, including precious metals, are by all odds the largest single items in the international balance sheet. The export movement greatly exceeds the imports in value, thus leaving a substantial balance "in our favor." This balance must be settled, however. Additional items, which are designated as "invisible," now come into play, and if all of these could be accurately ascertained, the export transactions in their entirety would equal the import transactions.

It will be further recalled that new foreign investments of American capital, gross, is by a wide margin the largest individual invisible item. The net sum, however, is of late years not greatly in excess of American tourists' expenses abroad or of interest and dividends received on long-term private investments. Moreover, foreigners invest in the United States and this amount tends to offset, to some extent, by means of international exchange operations, the larger volume of American investments abroad.

Thus, viewing foreign investments as one of the invisible items in our foreign trade—and the largest one—it looms as one of a group which together makes possible the balancing of America's foreign transactions each year. Its function, in this broader sense, is no different and only relatively more important than that of tourists' expenditures, interest on foreign investments, immigrants' remittances, etc. Thus, we could with propriety substitute one of these latter for "credits" as given in the preceding quotation. It would be equally true, in this general sense, to say "our tourists go abroad, orders pour in, goods move out"; or, "immigrants make remittances to home, orders pour in, goods move out.'' Considering the interest received in the United States, including the Federal Government, on previous foreign loans and investments, a reverse chain would be forged: ''foreigners pay us interest, orders pour out, goods move in.'' It is principally because the capital items (investments abroad and investments by foreigners in this country) represent such a large unfavorable or debit balance that their specific relation to export merchandise trade is so usually asserted.

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[9] Julius Klein, "Dollars Loaned Are Goods Sold," *Magazine of Wall Street*, Vol. XIV, No. 13, p. 1120.

[10] *See* Chapter I.

Now viewing foreign investments from their specific angle, the question might be raised: ''Is it true that when we make an investment abroad, orders pour in and goods move out?'' In other words, did the loan of $14,000,000 made in 1929 to Chile cause American exporters to procure additional orders to this extent?

The most obvious manner in which it would be assured that this loan of $14,000,000 would be used to pay American exporters for a like value of merchandise shipped to Chile is to insert a provision to this effect in the loan contract. A provision of this kind is known as a ''tying clause'' and the loan is thereby ''earmarked.'' The popular impression is that international investment bankers generally insert such a requirement in the loan agreements which they negotiate. Opinions differ as to the extent to which this is done. From one source we find that many United States loans during the post-War period have been tied.[11] Dr. Klein, in the article previously cited, states that we rarely earmark our loans. Still another survey concludes that in those loans where the tying clause is most likely to be found, such is not the case.[12]

Several reasons might be mentioned why such a policy is unusual. Competition between banking groups is international as well as national in scope and no country, including the United States, possesses a monopoly over the supply of capital. Further, it should be recognized that bankers as a group are quite independent of merchants and manufacturers as a group. Bankers are interested in financial transactions and seldom does such an affiliation between bankers and exporters exist that the former would look to the interests of the exporters by earmarking loans, even if they were able to do so. Moreover, the element of security is closely connected with the value received for funds that are loaned. To insist on uneconomic purchases of merchandise in the lending country when a better price could be found elsewhere is to introduce a feature of unwise management at the outset. The extent to which loans are earmarked therefore remains conjectural, but it is improbable that such a practice will be adopted as a general policy.

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[11] George W. Edwards, "Investment Policy in Relation to Foreign Markets," *Annals*, Vol. CXXVII, p. 165.

[12] A. P. Winston, "Does Trade Follow the Dollar?" *American Economic Review*, Vol. XVII (September, 1927), p. 458.

Upon further investigation, there appears a more complex relationship than is conveyed in the popular expression ''trade follows the dollar.'' It is quite likely that the reverse is also true, *viz.:* ''the dollar follows trade.'' This theory is supported by Professor Cassel.[13] Unless a country is able to compete successfully in world markets and thus build up an export balance of goods, it will be in no position to export capital. In this point of view, the merchandise exports provide the means with which to make foreign investments. The investing country being thus predominant in the export trade, it follows that it will be in a competitive position to procure its share of further exports of merchandise which may be made possible by foreign investments.

The relationship between foreign trade and investments is perhaps best viewed as reciprocal. The former lays the foundation for the latter and vice versa. By ignoring the time element, which for statistical purposes must be interjected, the relationship becomes complex. Irrespective of whether the cycle begins with investments or with trade, it is bound to continue, and the effect is shown to be reciprocal. Thus the maxim might more truly be extended, ''dollars are loaned, goods move out, dollars are loaned, goods move out, dollars are loaned, etc., etc.'' Although differences of opinion may exist as to how the chain began it obviously becomes increasingly difficult, as the links are added, to distinguish between cause and effect.

Referring again to the balance of international payments, it would appear that such reasoning as this would fit more accurately into the picture presented by it. For statistical reasons, the balance must be prepared on a yearly or some other time basis. But in the trade and capital movements, it is quite possible that the foreign investments made by Americans in 1929 were made possible because of the trade balance built up in 1928 and also that such investments will bring about part of the export merchandise balance of 1930. If international payments are made largely by means of goods, services, or precious metals, then it follows that at some time, and in some manner, a foreign loan may have left the investing country in one of these forms. This economic principle is operative without regard to earmarking or any other artificial means of directing the expenditure of funds.

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[13] H. K. Norton and Gustav Cassel, *Foreign Investments,* p. 39.

Accepting the general relationship between trade and investments, let us look briefly to the probability of a direct country-to-country relationship. In the query propounded above, for example, the assumption may be that a direct trade relationship with Chile is to be found because of the financial assistance granted.

The popular notion contained in this supposition may be borne out in our trade balance with many countries. In the case of France, Germany, Italy, Argentina, Venezuela, Belgium, and particularly Canada, for example, our merchandise sales so exceed our purchases that the loans we grant may be considered as having paid for the balance created.

The presumption is weakened, however, when we look at our relations with such countries as Brazil, Cuba, Chile, Colombia, Japan, as well as Austria, Czechoslovakia, and Netherlands East Indies. In the instances here cited, our imports exceed our exports, in some cases to a considerable degree. If investments, therefore, support our excess of exports to the first group, what relationship is established when the reverse is true? If a precise country-to-country relationship is sought the reasonable connection between investments and an excess of imports is clearly that the loans pay for the merchandise purchased. The difference in the two types is merely that in one our funds pay for the goods which foreigners buy and in the other payment is provided for the merchandise which we purchase. Obviously, however, the precise country-to-country relationship is incorrect in one of these observations.

Still further complication of a precise country-to-country connection is seen in the commercial relations with a third group of countries. In the case of Australia, our investments scarcely touch the excess of exports over imports from that country.

Such countries as Poland, and Yugoslavia are instances in which the investments made are greatly in excess of our total merchandise trade with them.

The truth of the whole matter now comes forth that the relations between foreign investments and foreign trade are broad and withal transcendent of time or tying restrictions and of precise country-to-country connotations.

The *modus operandi* of this complex situation is well epitomized in the following quotation:

> . . . if a South American State that is building a railway raises a loan in London, it may spend the proceeds on steel rails made in Belgium and on rolling stock manufactured in the U.S., but the Belgian and American sellers of the goods in question will take payment in sterling drafts, because a sterling credit is all that the borrowing Government has got for making payment for them, and either they, or someone else to whom they pass the credit on, must buy something in England for England is the country, and the only country where the particular kind of money that has been borrowed passes current in exchange for goods and services; if it is going to be spent at all—as it certainly is—it has to be spent here finally, however often it may have in the meantime changed hands abroad and been converted into foreign currencies.[14]

PURPOSES OF FOREIGN INVESTMENTS

It is difficult to learn with any considerable degree of accuracy the purposes for which loans are made to foreign borrowers. In many instances the purpose is not stated in the prospectus issued by the underwriters and even when stated there is no assurance that the funds are expended in accordance therewith.

Prominent among the purposes for which foreign bond issues are known to be floated is the construction of public utilities. In 1928, for example, the Commonwealth of Australia borrowed $50,000,000 for developmental and productive public works and the city of Brisbane borrowed $6,500,000 for permanent improvements, including roads, bridges, and extension of electric service. Funds loaned to Colombia were chiefly used for highway and railway construction, as was also the case in Brazil, Chile, and Cuba. "Sewage systems, water works, electric light and power plants, and the improvement of harbors and dock facilities''[15] were also provided for by Latin American public loans. German municipalities borrowed for gas, electric, and power enterprises, rapid transit and drainage systems. Polish issues were floated to construct ''market halls and stockyards, improve transportation facilities and water works, enlarge electric power stations, regulate rivers, and bring about fixed agricultural improvements.''[16] Antwerp borrowed to construct harbor improvements.

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[14] Hartley Withers, in *Commercial and Financial Chronicle,* Vol. CXX, (May 16, 1925), p. 2484.

Thus we might continue to enumerate public works for the construction of which foreign countries float loans in the United States. When such purpose is so clearly displayed it becomes obvious that it is not money that the borrower wants, but rather the railroad, drainage system, power plant, etc., or the credit with which to contract for their construction. The borrower actually is buying the public utility involved and in case purchases are to be made outside of the borrowing country there is an excellent opportunity for the lender to procure orders or contracts for materials and construction.

Loans were also made in 1928 for banking purposes, such as the creation of banks, improvement in their condition, and additional credit facilities. In recent years also loans have been made for the purpose of stabilizing foreign currencies.

Private borrowings run as wide a range of activities as is true of stock issues in the domestic market. Foreign industrial and commercial enterprises float stock freely in the American market for the usual purposes of expansion, improvement, consolidation, operation, etc. In such instances, however, it will be remembered, an ownership relationship is established by means of the stock certificates which are issued.

In some instances American capitalists and industrialists acquire an interest in, or control of, foreign enterprises by means of stock purchase abroad. In 1928, for example, such methods were followed in acquiring the Opel Automobile Works in Germany by an American automobile manufacturer, certain Norwegian companies by the Union Carbide Company, foreign public utilities by Electric Bond and Share, and foreign telephone companies by the International Telephone and Telegraph Corporation. Moreover, there were ''substantial purchases by our numerous investment companies of foreign internal security issues, both stocks and bonds.''[17]

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[15] *Commerce Reports,* April 1, 1929, p. 3.

[16] *Ibid.*

Direct investments are also made by Americans without the interposition of security issues. In such manner branch factories, houses, and banks are established abroad, and plantations, mines, industrial enterprises, commercial organizations, shipping facilities, etc., are purchased. In this way, also, needed raw materials have been steadily and economically produced for import into the United States.

In such instances the investor does not lend his funds for others to use, or to acquire a minor portion of control; instead, he undertakes the direct management of the enterprise. The most direct control over the disposition of the funds is thus provided. In case a mine is to be exploited, for example, the investor-manager will require machinery of various types, communication lines, etc. Merchandise thus involved may come from the United States, particularly since the investor is more likely to be thoroughly acquainted with machinery of home manufacture. Economical utilization of funds, however, is also a consideration, and there is no guarantee that purchases will be made at home. The immediate effect of the investment could be indirect rather than direct.

Further effects upon trade may be noted from the fact that engineers, managers, etc., will in all probability come from the United States, and these, together with their families, will form a basis of trade contact. This will consist partly of their own purchases of articles to which they have been accustomed at home, although the amount of such trade is obviously negligible. The trade contact, however, may lead to an arousing of the interests of foreigners in the country from which these persons have come and the introduction of new articles through their possessing them.

The greatest effect on trade in this and all other types of investment is perhaps that such factories, mines, railroads, public utilities, and other productive enterprises will give work to natives of the foreign country and stimulate the demand for foreign as well as local products. This naturally will enhance the standard of living of the people affected as well as many others who will be indirectly influenced, and the further growth of foreign trade to supply such wants will prove of benefit to the investing nation as well as to other exporting nations.

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[17] Max Winkler, in *Nation's Business,* Vol. XVII, No. 12 (November, 1929), p. 28.

A specific illustration of this relationship may be drawn from our investment experience with Latin American countries. In the foreword to Dr. Winkler's *Investments of United States Capital in Latin America,*[18] Dr. Leo S. Rowe, Director General of the Pan-American Union makes the following observations:

> During the last twenty-five years the United States corporations operating in Latin America have come to realize, as never before, that national good will is an important factor in the success of their undertakings. The new spirit pervading the large United States enterprises in Latin America is evident in the *improved housing conditions* and *higher wages* enjoyed by the employees of these corporations. They are providing *improved educational* and *recreational facilities* for their employees and *setting a standard* which is making these industries welcome guests in the countries in which they operate.

This reaction resulting from the development of the resources and productive power of the foreign country looms as the greatest advantage in trade resulting from foreign investments. By augmenting the productivity of the country, the means of supporting an expanded trade are provided. The effect is largely indirect; in comparison with this long-run relationship, any direct connection arising from earmarking of loans, even if commonly practiced, would be relatively insignificant.

A further general purpose of foreign investments is to steady exchange rates. Indeed, if it were not for the invisible items in our trade, the chief among them being foreign investments, our balance of international payments could not be maintained at such a high level. By means of general currency stabilization for which vast sums were loaned to foreign countries during the past decade, the economic stability of these nations has been greatly improved. Order has been created out of chaos. The normal working of the nation in all lines is assisted by a stabilization of the medium of exchange.

As a lending nation, the United States benefits economically by this financial penetration. Admitting the impossibility of establishing a precise connection between the great majority of foreign lendings and the specific movement of commodities, we realize nevertheless the economic laws whereby the credits granted are transferred from the United States. This may lead to an increased export trade to every quarter of the globe—not alone or even necessarily to the borrowing countries. Dr. Winkler iterates the observation that the total of our foreign investments since 1913 almost exactly corresponds to the aggregate excess of exports over imports, during the same period.[19] This he hails as the most striking feature of American foreign trade.

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[18] World Peace Foundation, 1930.

Repayment of Loans—Interest Payments.—When foreign loans are repaid, or when interest is remitted, a reverse action in trade or services to that which has been outlined is set up. If investments have been placed in productive enterprises and thus "put to work," the borrower will have little difficulty in making payments on the basis of exported goods or services. In many types of public improvements this may require a considerable period of time to reach consummation. The due date of the loan, even if thirty, forty, or fifty years, may prove inadequate and further borrowings will be made. At some time, however, a settlement must generally be made and it will be largely influenced by the productivity and stability engendered by the investment.

Of course, one hundred per cent repayment of capital and interest is hardly to be expected. A pessimistic note is sometimes heard. ". . . the cynic who surveys the history of foreign lendings may be pardoned if he comes to the conclusion that, broad and long, the borrowing nations of the world pay interest on their loans just about to the extent that their creditors advance them the wherewithal to do so."[20]

Some investments may never be repaid. In the first place, the investor is interested in regularly receiving interest or dividends and is quite content to allow his funds to remain abroad. Political considerations may at times be found in the investment policy of some nations, but for the United States it is certain that funds go abroad primarily for reasons of anticipated profit. Indeed, the attraction in the form of high yields may purposely be made greater than in the case of the same issues simultaneously offered in European financial centers where foreign lending experience is of much longer duration. When lucrative loans mature, instead of being repaid, refunding issues may be floated so that the investment continues. The same operation is followed in case the borrower is unable to settle his obligation at maturity. In case Americans acquire a copper mine in a foreign country, the investment may stay abroad as long as it proves profitable to exploit the deposits; and if it should become exhausted, there obviously is nothing with which to return the investment. It should have amortized itself.

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[19] Max Winkler, *The Dollar Abroad*, Foreign Policy Association, Vol. V, Supplement No. 1.

[20] A. E. Davies, *Investments Abroad*, p. 20.

Increasing interest and dividend payments, sinking fund commitments, and eventual repayment, establish a strong import basis. This tendency is viewed by some as inevitably decreeing the creation of an excess of merchandise imports over exports as is the case with Great Britain. Writers of five to ten years ago who viewed this altered status as imminent have witnessed a continuance of our merchandise export balance. This has been possible in part because of the refunding operations and permanent expatriation here discussed. American foreign security holdings, it will be remembered, comprise, to a large extent, an owner relationship by means of stock possession. Together with the fact that profits are being reinvested abroad, this situation defers the time when the United States will find its trade balance reversed. Although this trade condition may be highly gratifying to the mercantilist-minded person who views with grave fears the approach of an "unfavorable" balance of trade, there is some room for solicitude on the part of the more logically minded with respect to the indefinite pyramiding of foreign loans in this fashion.

CRITICISMS OF FOREIGN INVESTMENTS

Foreign investments have been criticized on the ground that capital is withdrawn from the needs which it should meet at home, thus creating a monetary stringency here, influencing prices, and laying the foundation for a huge importation of merchandise in later years.

The following statement is typical: "The American market is the greatest market in the world and is made so by the very wages that are paid to our workmen. If we are deprived of such a large volume of wages as are involved in the emigration of capital it cannot be long before the condition is reflected in the buying market and the emigrés will find that they have starved themselves, they will have brought about strangulation out of short-sighted greed for immediate profits.''[21]

In a study entitled *American Dollars Abroad,*[22] Dr. George W. Edwards carefully analyzes this type of criticism. He finds that in the face of expanding American foreign investments, the interest rate on domestic bonds, *e.g.,* railroads and public utilities, has declined; that goods rather than gold have been exported; and that reliable indices of production, prices, wages, etc., have indicated trends favorable to the American public. In other words, foreign investments have not led to the results that the critics fear.

A second criticism refers to the competition offered to domestic enterprises by foreign branches and producing concerns. Thus, when an American automobile manufacturer, instead of increasing his home production facilities, establishes a factory in some foreign country, the result is said to be direct competition with American labor and industry. At first glance, this conclusion would appear to be correct, although some mitigation of the evil would be provided by the possible exportation of machinery and equipment and the employment of American managers and engineers. A similar situation arises when American capital is invested in a foreign enterprise which is thereby enabled to compete abroad more effectively with American producers.

It is quite possible that such instances do occur. Regarding the establishment of foreign branches of United States concerns, however, it should be remembered that competitive conditions and frequently protective import duties abroad, induce manufacturers to take such steps. There is no guarantee that the exporter would be able to hold the foreign market if he operated entirely from the home base and the conclusion cannot be justified that American labor is unnecessarily injured when the probability is that expansion at home would be unable to cope with the foreign market situation.

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[21] Matthew Woll, Vice-President, American Federation of Labor, quoted in *New York Times*, Aug. 11, 1929.

[22] George W. Edwards, *American Dollars Abroad* (New York, Stone & Webster and Blodgett, Inc., 1928).

Such fears, in the broadest sense, lose sight of the economic principles according to which foreign trade moves. Mercantilism, although discarded as a theory, is still prominent in the thinking of many persons to-day. As a nation, however, we no longer believe that we can get rich at the expense of other peoples. Prosperity is possible for all peoples. By constantly increasing levels of production and of standards of living, markets for the products of all nations will be further expanded. A peaceful, prosperous and wealthy nation is far more satisfactory and more profitable to deal with than any other. If investments can help other nations to reach this standard, then a world advance hitherto unknown will have been accomplished.

UNITED STATES GOVERNMENT POLICY REGARDING FOREIGN INVESTMENTS

Although American citizens are free to invest their funds or their talents in any part of the world where they are permitted to do so by foreign countries, the United States Government must adopt some policy regarding such activities. Official intervention is expected in case difficulties arise. The Government has, therefore, developed its policy gradually to conform to the changed status of the United States as a great investing nation.

The basic attitude of the Government is well expressed in the words of former President Coolidge, *viz.:* that when an American citizen or his capital goes abroad they are "a part of the national domain." An earlier statement of Mr. Hughes declared that the "government endeavors, by friendly advice, to throw its influence against unfairness and imposition, and it has at times, with the consent of the parties—indeed at their instance—agreed to a measure of supervision in the maintenance of security for loans which otherwise would have been denied or would have been made at oppressive rates."[23]

The practical working of this policy emanated from the so-called Ruling of 1922, in which the Government expressed the wish that investment bankers submit to the Department of State the proposals contemplated in foreign bond issues in order to allow the Department to make any comment which is deemed advisable.

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[23] Quoted by H. T. Collings, "The Foreign Investment Policy of the United States," *Annals*, Vol. CXXVI (July, 1926), p. 75.

> Under this ruling a definite procedure of control over the flotation of foreign loans has been established. An American banking house, contemplating the flotation of a foreign loan, sends to the State Department a written memorandum giving the important details of the prospective loan and asking whether there are any objections to it. The State Department thereupon undertakes, with the co-operation of other departments such as Treasury and Commerce, an investigation of the loan from the standpoint of public policy and informs the banking house whether "in the light of the information before it the State Department offers no objection." [24]

This plan in no way contemplates that the United States Government is to be referred to in any manner in connection with the loan. Moreover, the bankers are left entirely free to suit their own convenience in the matter, but it is expected that the Government's opinion will be respected. And such has been the case at least until 1929 in connection with proposed loans to Russia, to the potash syndicate, and for the purpose of coffee valorization in Brazil, all of which were frowned upon by the Department of State.

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PART V

FOREIGN TRADE METHODS AND TECHNIQUE

CHAPTER XXXII

FOREIGN MARKET SURVEYS

It would seem that the making of market surveys is almost as essentially a part of the business of foreign trade as the mechanism through which foreign markets are promoted and sales are accomplished and financed. No exporter—whether producer or middleman—will establish an expensive trade organization or set aside substantial funds for advertising or other promotion work without considering carefully the future possibilities of the foreign markets in which such steps are contemplated. In one way or another he will endeavor to ascertain the facts needed as a basis for intelligent judgment. This is the essence of a market survey. The exporter is interested primarily in a survey which discloses market possibilities for a particular commodity or group of commodities. The Government, too, has made surveys of this character, but as its interests are broader, it has also prepared market handbooks containing general surveys covering a wider range of commodities, or general market studies that are of value to all interested exporters.

A comprehensive foreign market survey may be said to comprise the following related parts: (1) an analysis of all basic factors bearing upon present and future market possibilities; (2) a study of price and quality considerations; (3) a study of the marketing, and merchandising methods, credit terms, methods of credit extension, shipping facilities, and other trade practices and facilities available or best suited to particular foreign markets; and (4) present business conditions in these markets. A study of current business conditions exclusively may cause the exporter to reject a market that is basically favorable so far as the future is concerned, while failure to include such a study may cause him, on the basis of the future possibilities disclosed in his survey, to begin his selling program at an inopportune time. A partial survey may include only certain definite trade factors or considerations that are unknown to the exporter or agency making the survey.

Market surveys are variously made by exporters through their own business organization, by private professional investigators, by foreign trade banks, by steamship companies, by associations of foreign trading concerns or organizations supported by groups of exporters, by export advertising agencies, by the Bureau of Foreign and Domestic Commerce through its central office organization and its foreign commercial service, by the Consular offices of the Department of State, and by Government agencies such as the Department of Agriculture and the Federal Farm Board. Much of the data needed by an exporter in preparing a specific market survey can be obtained from sources available in the United States—from the publications and files of the Government agencies discussed in Chapters VI, VII, and VIII, from the trade promotive organizations referred to in Chapter XI, from the foreign departments of banks, from the statistical reports and other publications of foreign Governments available in the libraries of the Department of Commerce, of the larger foreign trading banks, of foreign trade organizations such as the Philadelphia Commercial Museum, or elsewhere, and from other foreign material available in these libraries. Data not available here, and the personal touch, desired in a foreign market survey, are obtained on the ground, but time and expense can be saved by making a careful preliminary study on the basis of information readily to be had within the United States.

BASIC MARKET SURVEY FACTORS

In surveying the present and future market possibilities for a particular type of merchandise in a contemplated foreign market, it is obviously impossible to adhere to a standardized formula. When merchandise of the same general kind is already on the market an effort is made to survey the existing volume and sources of supply and the existing market demand, and then to estimate future possibilities in the light of all available facts that bear fundamentally upon what is likely to occur in the future. In surveying the probable market for a specialty that is not at present distributed in a particular region, the procedure is further complicated by the absence of a present supply and of any tangible evidence of present market demand. In either case a survey of future market possibilities depends in its last analysis upon unbiased research and business judgment.

1. Much attention is usually given to home industries and resources that may affect vitally both supply and demand in a particular market. Should it be found that merchandise of the kind in which the exporter is interested is being produced in the prospective foreign market, the volume of native output will be considered by him as part of the present supply and as a source of market competition. Should the foreign region's resources—natural as well as labor—forecast growth of the native industry in the near future, the decision of the firm may be influenced in no small measure.

But the survey does not cease with the foreign region's ability to produce its own requirements of the commodity in which the exporter is interested. It is equally as much concerned with other native industries and resources, for upon them to a large degree depends the region's purchasing power and the probable market demand that the exporter may be able to promote. Should the foreign country possess great agricultural, forest, or mineral resources, with a likelihood that they will be developed, but few manufacturing industries, it is apt to be a natural market for imported manufactures. Should it be an industrial nation, it is apt to be a natural market for foodstuffs, raw materials, and semiraw materials, and it may also be an excellent market for mineral oils, industrial machinery, manufactured specialties, and other finished manufactures not produced at all or on a scale quite inadequate to satisfy the country's requirements. The Latin American markets are typical instances of the former, and the industrial countries of western Europe of the latter. But it is necessary to analyze the character of the agricultural, forest, and mineral industries of the nonmanufacturing regions, and that of the manufacturing industries of industrial regions. Agricultural production may be specialized and quite different from that of the United States, so that a market for flour, canned meats, evaporated milk, or other American food exports may be found in a tropical or subtropical region. There may be a vast supply of tropical hardwoods and at the same time a market for American lumber. A foreign country may have important manufacturing industries, but be short of many manufactures that are produced for export in the United States. The range of manufactures may be as wide as in the United States, England, or Germany, and as narrow as in Japan.

Just as the United States is both agricultural and industrial in its production economy, so there are many foreign countries in which there is a substantial subdivision of activities. On the continent of western Europe many industrial countries have developed agriculture intensively. Canada, Australia and Russia are examples of agricultural countries in which manufacturing industries are being developed. China is a country possessing the resources upon which great manufacturing industries may be built at some more distant time in the future. It is the province of the market analyst to survey production as a whole, both that of the present and the probable development of the future, in its various aspects of supply and demand.

2. The market survey will make mention of the existing exports and imports of the foreign country and its trade as a whole with the United States. What is the general character of its exports and where are they marketed? What is the general nature of its imports and from what countries are they obtained? Are any significant trends in the country's foreign trade noticeable? The general character of the country's trade with the United States is similarly analyzed. What general type of American wares are finding a market there? Are the main exports of the country such as to find a ready market in the United States, or are they compelled to seek elsewhere for export outlets? Are the imports received in the United States from the foreign region that is being surveyed sufficiently large to provide a basis for increased imports from the United States? An unequal relationship between imports and exports in the trade of the United States with a particular country does not prevent further growth, but a substantial volume and value of imports from there may exert a favorable influence upon exchange rates, shipping charges and services and financial settlement, and generally lighten the task of the American exporter.[1]

3. Still another, but related, basic market factor is population and purchasing power. Data concerning production for export, the present volume of imports, wages and incomes, the distribution of wealth, land ownership, unemployment and pauperism,

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[1] *See* Chapter II.

thrift as shown by savings bank deposits and other statistics, and educational facilities and illiteracy may enable the market analyst to estimate the existing purchasing power of the region's population and its trend in the future. Its purchasing power of the future will, of course, depend largely upon the development of its industries or its agricultural forest or mineral resources. Statistics may indicate a vast population, but unless and until this population acquires a substantial purchasing power, the market for imports may be surprisingly small. The agricultural and other natural resources of the tropical and subtropical Latin American countries forecast greatly increased exports and imports in the future, but they must be developed before these markets can obtain maximum purchasing power. Increased population, capital, and production effort are essential to accomplish the development of their resources. In China a vast population as well as extensive resources comprise the basis for a greatly expanded import market, but this population must acquire a purchasing power, and it may be that in this country the desired purchasing power cannot be obtained unless manufacturing industries are developed. In Canada, Australia, South Africa, and Argentina population is small, but its per capita purchasing power is so high that large markets for imports have been developed.

Population statistics must necessarily be analyzed with regard to purchasing power, literacy, habits, personal requirements, styles of architecture, modes of living and social psychology. Climatic conditions, even diet, may be important market factors in connection with particular commodities. Only the portion of a country's population that is apt to be interested in the exporter's wares is a consideration of the immediate future. The remainder, which may be large, is a consideration of the more distant future, when it, too, may acquire the ability and desire to purchase imported merchandise of many kinds.

4. A fourth related trade consideration in practically all foreign markets for many types of merchandise is foreign competition. Aside from certain specialties and certain commodities in which the element of monopoly is present, all international commerce is to a greater or less degree competitive. Active competition on the part of British and continental European exports is encountered in most foreign markets by American

exporters of the standard manufactured products of international commerce. Japanese and Canadian competition is an additional factor in certain markets for manufactures, and a particular American manufacturer may also find that other American exporters are competing for the market of which a survey is being made. In a nonindustrial region this outside competition may be of far greater importance than that afforded by native industries. The sum total of the native production of a particular commodity plus imports from abroad minus re-exports to other markets, constitutes a general measure of the present supply of, and demand for, the commodity in question. The market analyst will, however, endeavor to ascertain the exact sources of this supply, the probable existence of a temporary oversupply or a temporary business depression, the exact quality of the merchandise offered by competitors and the prevailing prices, and he will attempt to gauge the ability of his firm to meet this competition successfully.

5. Geographical location, especially in its relation to transportation and communication services and charges, has frequently been a determining factor in the choice of foreign markets. It is significant that the relative position of American products is highest in the nearby republics and lowest in those farther removed. About 25 per cent of the total imports of Argentina are obtained from the United States, and the American ratio in Uruguay is 30 per cent and in Brazil 27 per cent. In Venezuela on the contrary, it is over 50 per cent, in Colombia somewhat under 50 per cent, in Nicaragua and Mexico nearly 70 per cent, and in Cuba over 60 per cent. Other factors, of course, are also operative, and the total export trade flowing from the United States to Argentina, the most distant of these markets, is heavy, but the favorable geographical location of the nearby markets has undoubtedly been a primary factor in the comparative position of American exports. Nearly 70 per cent of Canadian imports are obtained from the United States, even though British merchandise is entitled to preferential customs duties and Canada is politically a part of the British Empire.

Geographical location similarly operates against the American exporter in many instances. In estimating the future possibilities of the Russian market for competitive American manufactures, for example, its close geographical proximity to the competitive industries of Germany is a primary consideration. The American manufacturer of competitive products is, indeed, handicapped to a greater or less extent in all European markets by the favorable location of British and continental exporters. Japan, similarly, has a geographical advantage in the Chinese market. China, however, is a distant overseas market so far as both European and American exporters are concerned, and so also are markets such as Australia, Argentina, and South Africa. There are many regions in which geographical location neither handicaps nor favors the American exporter decisively.

Geographical location is translated into a dynamic trade factor primarily in terms of transportation charges and services. Ocean freight rates from American and European ports to the more distant overseas markets have usually been maintained at a reasonable parity, although not on the basis of exact equality, so as not virtually to bar either group of competitors from them. Very substantial differences in distance are ignored in the long-distance trades. This international rate parity, however, is not maintained to nearby markets, and ocean rates may there operate as a cost advantage or handicap.

Rate parity, moreover, does not denote a parity of ocean services. In the past there were too many instances of unfavorable service differences in the long-distance trades. Slow moving steamers, infrequent sailings, forced transshipments, triangular routes, and an inadequate number of regular steamship lines too often gave to the European exporter a real advantage in delivery time and in the assurance with which deliveries could be promised. This competitive handicap has been largely remedied during the past decade in the many overseas trades that are far removed both from the United States and Europe. In nearby and adjacent markets there necessarily continue to be service differences which materially affect the delivery of American exports, either favorably or unfavorably. Exporters of manufactures particularly are interested in regular, frequent, and fast steamship services. It should be noted, of course, that their interest is not solely in the competitive aspects of ocean transportation. Ocean rates and services in any case may affect delivery costs and delivery arrangements, and may materially influence the volume of sales in the market that is being surveyed.

Geographical location is also related to railroad and other forms of inland transportation. Direct rail services are an advantage to many American exporters in Canada and Mexico, and to German exporters in Russia. The Great Lakes and improved motor highways afford additional trade routes to Canada. Inland exporters are always concerned with inland rates and services to the ocean ports as well as with ocean steamship rates and services. Railroads and ocean carriers connect at the ports and both are keenly interested in through rail-ocean export and import traffic. An inland exporter is interested in the domestic or special railroad export rates applicable to different ports, in the absorption of port handling costs, in railroad storage and demurrage charges at the ports, in storage facilities, free lighterage and switching, railroad wharfage facilities and charges, ocean forwarding arrangements, and any other services, charges, or regulations that may affect the delivery of his shipments to the ocean carrier.

Inland transportation may also be an important consideration abroad when deliveries are contemplated at inland points within the undeveloped markets. To many inland destinations the only available means of transportation are rivers, unimproved highways, and mountain or desert trails. The use of primitive river craft, road carts, or pack animals may not only limit sales, but largely govern prices and the very packing of the exported wares.

Improved freight, passenger, and mail transportation services exert a very direct influence over the geographical location of a market. Speed, frequency, and regularity may in effect overcome largely the unfavorable location of a distant foreign market. Improved cable and radio services affect international commerce in much the same manner. The astonishing progress that has been made in the speed and certainty with which messages are conveyed is discussed in Chapter XXI.

6. The market analyst is also concerned with foreign governmental and legal considerations. His conclusions may in particular instances be influenced substantially by protective tariff import duties, unfavorable customs and consular regulations or other trade restrictions; by tariff discriminations; by undesirable foreign commercial laws; by an unfriendly attitude toward American business; by a general lack of governmental

stability, recurring civil strife, or disturbing foreign complications. If his firm is interested in exporting railroad equipment and supplies or other materials used in foreign Government enterprises, he will acquaint himself with Government purchasing methods and trade channels and with the possible presence of political influence.

In territories that are politically a part of rival exporting countries he will examine carefully the extent and effect of such political control or affiliation upon their overseas trade. The dominant trading position of British exporters in Australia, New Zealand, South Africa, and British India; of Dutch exporters in the Dutch East Indies; of American exporters in Porto Rico, Alaska, and the Philippine Islands, are instances that illustrate the general relation between commerce and political control. Other factors also are operative and foreign exporters are not prevented from developing a substantial trade, but the trade statistics of outlying possessions are in many instances too one-sided to be ignored. The advantage may lie in a preferential tariff policy. Trade between the parent nation and an outlying possession may be placed on the basis of coastwise commerce, or, although colonial import duties are assessed, they may discriminate in favor of imports received from the home country. In Canada the preferential tariff policy is so largely counteracted by geographical proximity to the United States and all that it implies, that imports from here continue greatly to exceed those from Great Britain; but in Australia, New Zealand, and South Africa where location is not so favorable to American exporters the preferential tariff policy has had a freer opportunity to operate. The trading advantage of political control or affiliation may take the form of governmental ownership of railroads and other business enterprises; preferential inland transportation charges, or subsidized ocean steamship services. It may also indirectly stimulate colonial investments and colonization. The governmental, legal, and monetary stability following the entrance of a strong foreign power may, indeed, benefit trade as a whole, but the trade analyst will endeavor to evaluate the trading advantages afforded to nationals.

7. In making a foreign market survey due attention is paid to financial considerations—to available banking facilities,

whether provided by native banks, foreign banks, or American banks; to foreign exchange; to the currency; to the general stability of public finances and to the private financial structure of the country. American and foreign investments are factors not only in their bearing upon purchasing power and the development of industries or resources, but also in the direct advantage that some of them may afford to rival American or European exporters.

8. The market analyst's assignment is not complete without reference to general business stability. Is the prospective market given to frequent business upheavals? If so, are such disturbances likely to continue in the future? Are they due primarily to political and governmental instability, to currency, banking, or other financial reasons, or to economic causes such as overdependence upon a particular crop?

PRICE AND QUALITY CONSIDERATIONS

Before completing a foreign market survey it will be necessary to ascertain specific data concerning prices and the quality of the merchandise to be offered. If native or foreign competition must be met, specific price and quality comparisons must be made, and even when the prospective trade is largely noncompetitive it is necessary to determine a price level and to judge the probable demand for the particular quality of merchandise that is to be exported.

The importance of prices as a market factor varies for different commodities and in particular markets. If the quality of the American exporter's wares and that of competitive foreign or native wares are the same, or substantially the same, competitive prices may have to be met, and if they should be so low as not to be attractive to the exporter, he may decide to seek foreign markets elsewhere. If the purchasing power in a foreign country is low, prices may again be a governing trade consideration. However superior the American exporter's wares may be, the higher prices expected by him may seriously limit his sales in such a market. Elsewhere, however, he may find that prices do not so largely dominate sales. In a market having a real purchasing power he may be able readily to obtain a normal price based upon prices charged in his domestic markets. He may be able to sell his wares on the plea of superior quality and at higher prices than are paid for inferior competitive wares of native or foreign manufacturers.

TRADE METHODS, FACILITIES, AND PRACTICES

A market survey usually includes a study of marketing methods and trade practices, particularly if a part of the survey is made abroad. They may to some extent influence the firm's decision to enter the market, and, in any case, after the choice of a market has been made, it will be necessary to determine the methods to be pursued, and to ascertain prevailing trade practices. Much information concerning procedure can be obtained while the basic facts underlying the firm's choice of the market are being surveyed.

Which of the several channels of distribution—foreign agents, export salesmen, branch houses, mail orders, etc., is best suited to the particular market in question? What forms of advertising or other general methods of trade promotion are most certain of results? Should the wares be offered to the wholesale trade, to retailers or to consumers? On what basis or bases should prices be quoted? What discounts, if any, should be offered? What credit terms should be accepted; what methods of credit extension should be adopted; how is financial settlement to be effected? Many chapters of this volume are devoted to export methods and practices in general. It is one of the functions of a market survey to set forth information that will enable the exporter to decide specifically upon the trade methods and practices to be pursued in connection with the sale of his particular wares in a particular foreign market.

This section will also include specific information relative to banking, shipping, inland transportation, warehousing facilities and practices.

Should the first market survey discourage the exporter, changing conditions may warrant further analysis in the future. Should it induce him to enter the markets it is well to remember that the work of the market analyst is practically continuous. The information contained in the original survey is constantly brought down to date. Being actively engaged in the sale of his wares and in the development of the market, perhaps through a direct trade organization of his own, this current analysis will be less difficult to accomplish than the original survey that resulted in his choice of a market.

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CHAPTER XXXIII

SPECIAL ASPECTS OF FOREIGN COMMERCIAL LAW

When an American trader goes abroad to transact business, he finds himself amenable to the law of the countries in which he operates, except in those isolated instances in which extraterritoriality is still in vogue. Foreign law may also apply to business transactions in which the jurisdiction is not so clearly settled. The rights, privileges, requirements, immunities, etc., that foreign law stipulates are always of decided interest to Americans who have any commercial or financial contact, direct or indirect, with other countries.

Foreign law is in many respects somewhat different from the law with which the exporter or importer is already familiar. It is the purpose of this chapter, therefore, to point out some of the differences that are to be found and to offer a means of appreciating the complexity of the whole subject. A comprehensive treatment cannot be undertaken.

Perhaps the first question to consider relates to the law governing a particular transaction between an American and a foreigner, say a Frenchman. Is the American or the French law to govern? How is this to be determined? In case of dispute, it is apparent that two different jurisdictions are involved. One way definitely to settle this question beforehand is to agree in the sales or purchase contract, or in the agency agreement, or in the course of correspondence, as to what law is to apply. American exporters often declare in advance that all conditions are to be interpreted according to the law of some designated state.

Failing to come to such preliminary understanding, the question of jurisdiction may be decided by private international law. According to some authorities, the law of the place at which the contract was entered into governs. Thus, if an American contracts in France to purchase a bill of French cosmetics, the French law would govern the transaction. On the other hand, some authorities hold that the law of the place of contract performance is to govern and this is often a different country from that in which the contract was entered into. Thus, an American salesman might visit a French importer of machinery and receive an order in which the exporter undertakes to deliver the merchandise f.a.s. vessel New York. Contract performance would take place in New York while the place of contract would be in France.

Still other authorities consider both factors in an endeavor to apply the principles which the parties are presumed to have had in mind. The law of the place of contract, in such reasoning, might be made to apply to such matters as formalities attending the transaction, unforeseen difficulties, etc., and the law of the place of performance would govern the nature and extent of the understanding and the ways in which it is to be carried out.

Since there is no uniformity in private international law, any one of these principles might be invoked in case a dispute should arise. The practice of the particular country in which litigation is instituted might govern the selection of the law that is applicable. Thus, a French Court in which an American would bring suit against a Frenchman might decide that United States law applies in the case and the court would then apply the appropriate United States legal principles. The practice of invoking the laws of one country in the courts of another is common and is an indication of the honest efforts of tribunals to render justice. These principles are not effective, however, if a definite understanding as to the law governing a transaction has been mutually agreed upon.

Aside from the municipal law or international law that would be invoked in connection with international commercial transactions, there is also the question of commercial usage. This is common law in the making and it is recognized throughout the world. Courts of law take cognizance of those established principles of trade and commerce embraced within commercial usage and accept them as binding upon merchants. In endeavoring to determine the intent of the parties nothing could be more justly presumed than commercial usage, for business men who are not versed in the law are certainly to be expected to know the customs in the trade with which they are connected. These customs or commercial usages are found in conjunction with particular products, with specific countries, and with the functional side of commerce. Thus, a quality designation of "fair average quality of the season" is interpretable not by law but by usage; the right to inspect merchandise before accepting the draft is recognized in some countries by law but may be the ordinary practice or custom; and a ton of cargo carried by a vessel may be one of several definitions all of which a foreign trader is expected to know. In some countries as, for example, Austria, commercial usages as relating to the export trade of the country have been codified and sanctioned by law.

Efforts have been made to unify private international law but no appreciable success has been attained. International conferences have dealt with the problem and some progress has been made in eliminating onerous restrictions or legal discriminations. At the Sixth Pan-American Conference in 1928 at Habana, a Code of Private International Law, drafted by Dr. A. S. de Bustamante of Cuba was approved by eighteen countries, but Mr. Hughes, the American delegate, pointed out that as far as the United States was concerned the acceptance of such a code was a matter for the several states and not for the national government. The League of Nations is working to codify and unify private international law.[1] It is to be observed, however, that uniformity in and mutual understanding of laws relating to international commerce are increasing.

Common Law and Code Law.—The countries of the world on a juridical basis fall essentially into two groups, *viz.:* common law and code law. The former applies in the United Kingdom and other countries which now or formerly have been associated with British legal thought by reason of colonial or empire relationships. On the other hand, the remainder of the countries of the world generally adopts the principles of code law.

Code law, as distinguished from common law, consists of compilated laws, assembled into groups of identical or similar subject matter, thus constituting a code, and as indicating the main branches of jurisprudence, it is divided into the civil, criminal, and commercial codes.

Under the Roman system of law the principles of the *jus civile,* later liberalized by those of the *jus gentium,* were generally applied without distinction, being made between merchants and nonmerchants or between commercial and noncommercial transactions. These principles, which had proved to be so splendidly suited to the necessities of the era in which they were evolved, did not continue in their evolution, and in the Middle Ages were found to be inadequate for the new conditions which had sprung from the great commerce developed by the powerful Italian cities of those days. To remedy such a situation the merchants of those cities organized into guilds, which had corporate right of legislation with respect to their own members as well as the right to exercise jurisdiction over them. Under the auspices of these guilds well-defined rules of commercial law were conceived and enacted and became binding upon merchants as a class. With the unification of these merchant guilds uniformity in these rules was generally attained. Disseminated by international commerce they became well established in all the main trading nations. In the course of time this group of commercial laws received its sanction from the State but as such was made applicable only to merchants as a class, while in all other cases the general principles of the civil law were applied. The division between the commercial and the civil law existing now in the juridical systems of practically all the nations of the civilized world may be traced to the above-outlined facts.

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[1] *See The First Conference for the Codification of International Law,* March, 1930, League of Nations Association of the United States.

In England, before the time of Lord Mansfield, commercial law existed as an independent body of law administered by commercial tribunals, as is now generally the case. However, under the initiative of Lord Mansfield this body of law, commonly known in England as the law merchant, was absorbed by the common law and administered by the common-law courts. This division then disappeared from the English juridical system and does not exist at the present time in countries whose juridical systems have been derived from that of England. Such is the case of the United States of America.[2]

The earliest of modern legal codes was that promulgated by Napoleon in 1807. The French "Code de Commerce" has been literally adopted or accepted with modifications by many other countries in the world. The German Code, adopted in 1897, has exerted a decided influence upon the laws of the Teutonic and Scandinavian countries, while certain other nations have based their laws partly on the French and partly on the German systems. The fundamental codes have undergone changes in the countries of their origin as well as modifications where they have been adopted.

Although the fundamental basis of commercial law in Great Britain and British possessions as well as in the United States is to be found in precedents of court decisions, there is a tendency toward the codification of commercial law. Progress in this direction is substantially impeded in the United States by reason of the diversity of state laws. Nevertheless, uniformity to a fair degree has been attained in the Negotiable Instruments Law while still greater codification of the law merchant has transpired in England.

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[2] *Trading Under the Laws of Argentina*, United States Bureau of Foreign and Domestic Commerce, Trade Promotion Series No. 74, pp. 8 and 9.

Although a decided advantage of code law is the assembly of all of the laws relating to a particular subject, these laws may become antiquated before changes are made. The common-law method, in spite of its indefiniteness, possesses the merit of flexibility.

Realizing that many features of the commercial codes are out-of-date, many countries have set themselves to the task of revising or rewriting them. This work is under way in many countries, especially in the Latin American states. The newer countries of Europe and of Asia, which either did not possess a commercial code at all or else lived under the national law of other countries of which they were parts and which, as a consequence of the War, became foreign to them, have proceeded to work out codes of their own.

The Commercial Code is usually divided into a number of books. In the case of Cuba, for example, there are four, dealing with, first, "the status of merchants and the field of commerce in general; second, special contracts peculiar to commerce, such as agreements for the organization of companies, commercial agencies, sales of merchandise, bills and notes, and mercantile loans; third, maritime law; and fourth, bankruptcy, insolvency and the suspension of payments."[3] Moreover, the Civil Code frequently contains general regulations governing commercial matters and is to be consulted in connection with the Commercial Code.

Merchants and Their Obligations.—The body of commercial law, as indicated above, applies to a special group of the citizens of a country who are known as traders. A trader is usually defined as one who is habitually engaged in commerce as a profession; all other persons are nontraders. It is essentially to establish the relations between these two groups as well as between traders that the commercial code has been separately instituted.

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[3] *Trading Under the Laws of Cuba*, United States Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 343, p. 7.

One of the primary obligations imposed upon traders in code countries is to enroll in the commercial register of the city or locality in which business is transacted. These registers are usually maintained by the commercial courts, although chambers of commerce are occasionally given charge of them. The register is viewed in a sense as a reciprocal obligation on the part of the trader in exchange for the trust and confidence that the trader elicits from the public. The information to be entered in the appropriate commercial register usually includes (1) the firm or individual name; (2) a statement as to the nature of the business to be engaged in; (3) the address or place of business; (4) the name of the manager or employee in charge of the business; and (5) at times the amount of capital subscribed in the business together with the amount contributed by each member.

A second group of registrable items consists of commercial acts that relate to the activities of the firm. These include all documents evidencing modification or dissolution; powers of attorney granted to other persons to act in such capacity; declarations of bankruptcy or suspension of payments, and even documents relating to the marital status and attendant property settlements of the members of the firm. Deeds and titles to real and industrial property may also be recorded in the commercial register.

Most of the documents here involved are to be legalized by the notary public. This official occupies a decidedly more important position abroad in code-law countries than he does under the less formal common-law jurisdictions. The notary frequently is versed in the law, is often a member of the bar and is placed under bond. In the Spanish system he is required to undergo a period of training, followed by a minimum period of legal experience. The notary maintains a file or protocol of the contracts and documents he has legalized, every act being carefully performed in strict accordance with the law. He is essentially the family lawyer.

A further obligation imposed by the commercial code upon traders consists of the maintenance of a minimum number of prescribed books of account. These usually include a journal, inventory book and correspondence file and additional records may be kept at the discretion of the company. Sometimes it is unlawful to keep accounts in any but the native language. As an evidence of the inflexibility of code laws, it is illegal in some countries to keep accounts in the loose-leaf system, as this is not considered to be a bound record. At periodical intervals, usually annual, the records are inspected by the commercial court, each page being marked and the number of pages in each book certified. This procedure is known as rubrication.

Failure to register incurs penalties that consist of a fine or, as is usually the case, of certain legal disabilities. In the event of litigation in which the unregistered firm may become concerned, serious difficulties are likely to be encountered, as it might then be necessary to prove the legal existence which theretofore had not been established. Indeed, recourse to law courts may be refused an unregistered foreign company; petitions of bankruptcy may be held up or refused; books of accounts may not be accepted as legal evidence; and other impediments of a potentially serious nature are incurred in this oversight.

A foreign concern selling through established trade channels abroad is not required to comply with these regulations, but in case a branch is established or a foreign company is created under foreign law, these requirements are as effective as in the case of national concerns. Moreover, when business is transacted through foreign agents, the principal may be considered as doing business in the foreign country and therefore be required to comply with the commercial law. In case a foreigner should register abroad, certain legal steps are usually necessary in addition to those already mentioned.[4]

Types of Business Organization.—There are several types of business concerns that may be created under foreign law and in many respects they are counterparts of the business organizations found in the United States. These forms differ, however, in certain respects as to their relative importance and, in some instances, they are entirely unlike business organizations in the United States.

Most business organizations in foreign countries are smaller units than are generally found in the United States. For this reason, a higher relative position is occupied by the various types of partnership than is the case here. *General partnerships* are authorized by the laws of all countries and the liability of the members is the same as under English common law, *viz.:* joint and several responsibility of all partners for the debts of the association. The name of the firm (*société en nom collectif*—French; *sociadad colectiva*—Spanish; *offene handelsgesellschaft*—German) may contain only the names of the various partners and if not all of the names are included, it is to be terminated with the words "and company." The contract of partnership may be entered into privately or, as generally is the case under Spanish and Latin American law, it is to be formally drawn up, protocolized by the notary, duly recorded in the commercial register, and published in the daily press of the locality.

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[4] *See* Chapter XVII.

The unlimited liability feature of the general partnership greatly restricted the use of this form of business organization and as expansion became desirable, it was difficult to find persons who were willing to risk a definite financial stake in the business subject to this unlimited personal liability. This difficulty gave rise to the limited partnership. The *limited partnership* (S. en C.—*sociadad en comandita*—Spanish; *société en commandite*—French; *Kommanditgesellschaft*—German) combines two types of partners; first, those who possess the same joint and several responsibility as those of the general partnership and, second, those who have restricted their liability to a definite amount of capital, as witnessed in the articles of agreement. The general juridical rule throughout the world is that only the first group may undertake the active management of the concern. The second class or "sleeping" partners possess only a financial interest in the enterprise; they exercise no administrative function and their names may not appear in the firm name. Under German law, the sleeping partner occupies a singular position in the *stille gesellshaft* (undisclosed partnership). In this case he may occupy a strictly creditor position in which he shares profits but not losses, and he may even set up claims against the company in case of bankruptcy.

The limited or commanditair partnership may be formed either in a simple manner as regards the capital holdings, or the entire capital may be divided into shares (French—*société en commandite par actions*), in which case the transfer of shares of capital to third parties does not prejudice the partnership organization. When assuming comparatively large units, the laws of some countries require that the commanditair partnership comply with certain regulations of corporation law.

A further departure from the general partnership organization occurs in *limited liability companies.* Although these are called companies, they are essentially partnerships on shares by reason of the fact that on a personal basis the business is actually a partnership, but with respect to the capital holdings it partakes of the nature of a corporation. The most extensive development of this type of concern is found in the German G.m.b.H. (*Gessellschaft mit beschraenkter Haftung*). Since this form as well as its prototypes in other countries is best considered in contrast with the business corporation, attention will first be paid to corporation law in foreign countries.

The *business corporation,* as known in the United States, is found in all countries of the world. It is known in British countries as a limited (liability) company (Ltd.), in French as *société anonyme* (S.A.), in Spanish as *sociadad anónima* (S.A.), and in German as *aktiengesellschaft* (A.G.). General corporation laws have been enacted in practically all countries, the older idea of individual creation by special law having been superseded.

As contrasted with the types of organization previously discussed, the corporation is an association of capital and not of persons; it possesses an independent identity and exists for a definite or indefinite period of time without respect to the life of its organizers and members. The corporation may usually be formed in foreign countries by agreement of a minimum of five but often seven persons and, together with the text of the articles of incorporation and the by-laws, all of the documents are executed before and subscribed by a notary public. Following this, the papers are registered in the commercial register and are published in the official gazette. Upon receipt of proper authority from the executive, the corporation is ready to begin business. As a general rule, all of the shares of stock must be subscribed and 25 per cent paid in cash. A board of directors is usually provided for as well as an executive committee or board of officers. Moreover, in many Latin American countries another group of administrators, known as "*síndicos,*" is required, these officers being charged with "maintaining a vigilance over the activities of the board." In most respects, however, the general features of corporation law in foreign countries are quite similar to those of American corporation law.

Now, what differences exist between the corporations, as we know them in the United States, and the limited liability companies found in some foreign countries?

The corporation, as it is organized in code-law countries, is particularly well adapted to the demands of large business involving considerable amounts of capital but it is too unwieldy and rigid for the modest concern. It should be remembered that business abroad is still on a much more personal basis than it is in this country and the units are essentially smaller. The limited liability company, as illustrated by the G.m.b.H., is a separate legal entity with a management that can be simply organized. Shares are not issued but the capital is divided into so-called parts or *Anteile.*

> The liability of the members of a G.m.b.H. is limited to the unpaid balance of their subscriptions. However, a provision can be inserted in the charter of a G.m.b.H. obliging its members to pay additional installments into the capital. . . . It is managed and represented by one or several managers or "Geschaeftsfuehrer." The members may appoint a board of directors (*Aufsichsrat*); however, this is not obligatory and in practice very seldom done.[5]

Limited liability companies, based upon the German system, have been legally authorized in other Germanic countries and are under advisement in Italy. French jurists attempted years ago to have similar provisions enacted into law but it was not until 1918, when Alsace and Lorraine, with many G.m.b.H. operating within their borders, were regained by France, that sufficient impetus was lent to the movement in France and a limited liability companies act was passed on March 7, 1925. In England, private initiative opened the way to the creation of limited companies, and the Companies (Consolidation) Act of 1929 contains complete regulations, to date, governing the system.

Some elements of superiority of the limited company over the corporation are as follows:

> (1) It is a more supple and freer scheme; if there are less than twenty members, there is no need of general assemblies, nor board of directors, nor of Supervision Commission; (2) it can be formed between two

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[5] Fritz Moses, *German Business Law,* American Foreign Credit Underwriters, Inc., p. 26.

> persons, while seven are generally necessary for the constitution of an "anonymous society"; (3) the formalities of constitution are much simpler, no necessity of formal declaration by a notary who verifies the assets put in the concern—no requirement of publication of all the texts of the by-laws (few abstracts are enough)—no obligation to have the by-laws printed; (4) each of the associates . . . may have an active part in the management of the business; (5) the most diverse forms of economic values may be brought as assets to the company.
>
> In addition to these advantages limited liability companies have a distinct superiority from the point of view of taxation.[6]

Under French law, for example, a manager of a limited liability company is not obliged to pay a tax on special dividends declared on the shares he holds. The import of this provision may be readily grasped when it is recognized that the number of managers permitted in the limited company is not restricted. In Germany, moreover, the G.m.b.H. may be liquidated by the holders of at least 10 per cent of the stock if they succeed in proving important reasons for so doing.

A limited company, as compared with a corporation, is a private and not a public concern. It may be a ''one man corporation.'' The shares are generally held privately, there being no widespread distribution as in the case of a public corporation. Needless to say, the limited company has met with considerable favor in those countries in which it has been authorized but in the United States, the flexibility and simplicity of our own corporation laws have obviated the necessity for the limited form of business organization.

Laws Relating to Sales.—In many British jurisdictions, the law relating to contracts is contained in the sale of goods acts of which the United States prototype is the uniform sales act. Many other countries have enacted laws that are analogous to or identical with these provisions, but certain features indicating the scope of foreign law as it applies to this subject should be noted.

It should be again emphasized that specific provisions agreed upon in sales or purchase contracts between Americans and foreigners will obviate unforeseen difficulties that may be created by the application of unknown foreign law.

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[6] Division of Commercial Laws, United States Bureau of Foreign and Domestic Commerce, Comparative Law Series, April, 1926, pp. 79-80.

The fundamental conditions of offer, acceptance, and capacity to contract are found throughout the world. Under German law, the acceptance of a definite offer, provided a prescribed time limit has not expired, is effective upon receipt of the acceptance. Thus, if a definite offer to purchase a certain quantity of grain has been made by a German importer, the contract is not binding until the German purchaser has received notice of the acceptance of the offer. Prior to that time, it may be altered or withdrawn. In most code-law countries, moreover, it is necessary to acknowledge contracts before a notary public or other official, in order to attest the legality of documents sued under.

The law of agency varies in different countries. Often a legal distinction exists between the factor or mandate and the commission agent, although this terminology is by no means uniform. Legally, the factor is a manager or administrator of a business in the name of another, and the term does not always represent the same function as it does in the United States. The factor in foreign countries may, therefore, bind the principal in all matters in which he has been granted authority and also to the extent that this relationship is presumed to confer authority. The commission agent, on the other hand, is decidedly limited in the powers he possesses with relation to the property of the principal. Even if disclosed, the principal, in some countries, may not enter into litigation proceedings with third parties on the assumption that the commission agent is an independent merchant and that persons have dealt with him as such. This observation does not apply, however, to the status of the principal in the mandate or factor arrangement.

In case of loss arising from delay in the performance of a contract, the buyer is often given more liberal support in enforcing specific performance than is applied by American law. In addition, the injured party may elect to rescind the contract, or sue for damages, or obtain court authorization to purchase in the open market a substitute bill of goods for the account of the seller, or he may have other remedies under the laws that are applicable. Claims for damage are usually valid in case they are presented without delay following the receipt of the shipment, and in some countries a specified period of time (often three days) is allowed for such examination. In case merchandise does not comply with specifications, or if it is unsatisfactory to the buyer in instances when the latter has not had opportunity to inspect the goods and no commercial designations of quality are in effect, the right freely to cancel the contract is sometimes granted.

The law of conditional sales is of growing importance to American exporters because the installment plan of selling, which is so widespread in the United States, is also useful in expanding sales of similar lines in foreign countries.

The installment or conditional sales plan, whereby title does not pass to the buyer until all payments have been completed, is not recognized in many code-law countries. It is often ruled that delivery of merchandise completes the transaction and that the seller has no right to interpose and repossess the goods because of failure to meet certain payments. With the insistence of modern merchandising for some legal basis whereby this plan may be operated in foreign countries, "there has been evolved a species of contract having the legal effect of a conditional sale and affording all the protection of a recorded chattel mortgage. This is variously termed the hire-purchase contract, the hire and purchase contract, or the lease and sale agreement. . . . In some countries the courts have not yet become accustomed to this new development in the law, and accordingly scrutinize such agreements diligently . . . inclining to hold that such agreements are leases in form only whereas in substance they are true sales, transferring title at once."[7] In general, however, facilities are now available for conducting business abroad on the basis of installment sales and such American concerns as the sewing machine companies have extensively employed the plan.

Powers of Attorney.—The power of attorney is the document conferring authority upon the party named to perform, for the account of the grantor, such acts as are specified therein. It is required abroad to establish the power granted to travelers, agents, attorneys, etc., to transact business for a foreign concern. Meticulous care is called for in the preparation of powers of attorney for use in code-law countries as the law is often strict with respect to the form in which they are to be drawn and the authentication to be accorded them.

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[7] *Installment Sales in Foreign Countries—1. British Empire and Latin America*, Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 370, p. 3. *See also* Trade Information Bulletin 376.

Powers of attorney are necessary in most countries and advisable in all for any foreign traveling representative whether he be owner, partner, officer, or employee. Particularly complicated requirements may arise in connection with powers carried by representatives of corporations. In such instances it may be necessary to establish not only the right of the representative to act but also the power of the corporation to confer such right. The granting right may be established by the tedious process of presenting to the certifying notary in the United States a copy of the charter and by-laws of the corporation, the minutes showing the election of the board of directors and the resolution of the board by which the authority to grant the power was made. As some countries do not recognize the mere affirmation of an American notary that such documents were properly presented, it may be necessary to attach certified copies of appropriate portions of these documents for presentation abroad. After these formalities are complied with, proper legalization of the notary's act by a consul of the country in which the power of attorney is to be employed is required. This may involve certification of the notarial seal by the secretary of state of the commonwealth in which the notary is commissioned or by some other official.

In drawing up the power of attorney care is also to be exercised in stating the authority to be conferred. General powers of attorney are acceptable in some countries but in others nothing is recognized unless it is specifically set forth. Although the power of attorney may be acceptable if written in English, it rarely is admitted as a legally binding authority unless translated into the language of the foreign country. If this is done abroad, burdensome fees may be incurred, but the advantage of securing closer adherence to the laws and customs of the foreign country may be realized. Two or three witnesses may be needed to guarantee the authenticity of the power. When taken abroad, the document may need to be legalized by act of the foreign notary and it may be customary or necessary to register the power of attorney in the proper legal jurisdiction or with a designated commercial body.

The specific requirements of each country vary in detail and should be closely studied. The importance of exact conformance and a recognition of the significance of the power of attorney are among the outstanding phases of foreign commercial law.

Bills of Exchange.—Laws relating to bills of exchange fall into two broad groups, *viz.:* first, the English and American law and, second, that which is incorporated in The Hague rules of 1910 and 1912. The Hague rules are based upon the German law of 1848 and they have been adopted officially or are followed substantially in most of the code-law countries. Both systems recognize a bill of exchange as a distinct entity apart from the contract or obligation in connection with which it is employed. A few countries, however, do not follow this reasoning and consider a bill of exchange as an integral part of the commercial agreement or undertaking from which it arises. In such instances it is not recognized as an instrument of credit.

Under The Hague rules and the general practices in code-law countries, the word "bill of exchange" or its counterpart in the language in which the bill is drawn, must appear on the face of the document; failing this its validity is not sustained. Some countries that ordinarily follow The Hague rules do not, however, associate this formality with the validity of the bill.

A system recognized in The Hague rules and found in many code-law countries is that which is known as the "aval." This consists of a guarantee made by a person not a party to the bill of exchange and witnessed by an endorsement on the back of the document, whereby the guarantor becomes secondarily liable under the bill and in a manner in no way affected by it, the aval being considered as a distinct undertaking. The guarantee may be made with such restrictions as to time and conditions as may be inscribed on the bill in connection with the signature.

Many differences exist in the laws of the various countries as they relate to bills of exchange. "It is in the details of wording and in the variations of interpretation that national laws on bills of exchange differ. Thus . . . in other [countries] the drawer of the bill is more or less liable according to the national laws regarding contracts. Again, some countries impose special incapacities on the drawer of the bill on the basis of sex, of social position or of vocation. Likewise, the laws differ as to the effects of endorsement; in some nations a forged or irregular endorsement renders the bill invalid for all subsequent endorsers. And there is the widest diversity as to the laws on defaults, partial payments, insolvency, liabilities, 'days of grace' and a variety of other items. . . .''[8] The League of Nations has taken steps to arrive at a widespread international understanding on the matter of the unification of the laws relating to bills of exchange and for this purpose convened a conference in May, 1930.

Bankruptcy and Insolvency.—There is considerable variation in the laws of the different countries as they relate to this important subject. ''In some countries, as Brazil, the primary object of the bankruptcy law is to punish the debtor, and this was the rule in the ancient law until the introduction of the principle of *cessio bonarum* in Roman law.''[9] In other countries efforts are made to assist the unfortunate debtor to make a settlement of his obligations and to start anew in business. The laws of many countries are somewhat out of harmony with this modern principle since they have not been changed sufficiently to keep pace with the altered viewpoint. In Argentina, for example, an investigation was conducted in order to determine the weaknesses of the law of bankruptcy. ''It pointed out the possibility now for the inexperienced, unreflecting, or dishonest merchant to commit many acts of carelessness and of fraud. Among the defects of the law in connection with practices that were unfortunately well known and not exceptional were those of the collection of merchandise for the purpose of selling it below its value, where funds had to be raised; the formation of commercial undertakings with feigned capital; carelessness and disorder in commercial rules; the cessation of payments through causes attributable to an imprudent debtor; promissory notes and papers of accommodation; feigned credits; etc. One of the most serious defects is that of the facility with which the bankruptcy laws of this country permit the repudiation of commercial debts, and the general tendency here is never to go into court under these laws if any sort of a reasonable settlement with debtor or creditor can be effected extrajudicially.''[10]

A modified form of bankruptcy, known as ''suspension of payments'' is recognized in some code-law countries. This consists of a personal moratorium granted by the court in cases of voluntary application in which the debtor shows inadequate liquid resources, yet sufficient security to meet a fixed proportion of his debts within the specified period of time. The consent of the creditors may be necessary to establish this status. Since a period of years (three in the case of Cuba, for example) is permitted for the continuance of this arrangement, it is open to abuse by the debtor.

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[8] *The Movement to Unify the Laws Regarding Bills of Exchange and Checks*, League of Nations Association, May, 1930, p. 4.

[9] *Trading under the Laws of Australia*, United States Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 412, p. 36.

[10] *Trading under the Laws of Argentina*, United States Bureau of Foreign and Domestic Commerce, Trade Promotion Series No. 74, p. 136.

Due to the registration system abroad and the juridical position occupied by traders as a class, it is necessary for a bankrupt to be rehabilitated as well as discharged. Rehabilitation refers to his reëstablishment to the status of a merchant with the capacity to carry on business again, while the term discharge, as generally employed, refers to the settlement arranged with creditors. The bankruptcy laws of many countries are more stringent than those applying in the United States, particularly with respect to the discharge of bankrupts. Under the German law, full payment of the debts or composition with the creditors is required to obtain discharge and in case the creditors fail to agree upon a composition, the debtor is at all times in the future liable for the payment of his obligations. If the bankruptcy has been tinged with fraudulent conduct of any description, the debtor is not rehabilitated in many countries until a period of years has passed. This does not refer to his discharge from bankruptcy which may be accomplished by financial settlement. The period of time referred to may be as long as ten years after the original declaration of bankruptcy or five years after the fulfillment of the penalty imposed because of the fraudulent action. In Brazil the period of waiting is twenty years.

Taxation.—In Chapter XXXVIII attention will be directed to foreign tariff laws as they affect the merchandise crossing international boundaries and at this point a brief outline of the business taxes generally assessed abroad will be undertaken. The complexity of this subject is so vast that nothing more than a mere suggestion of the problems involved may be made. In general, a foreign concern whose business is handled by a local agent in his own name, is not considered as doing business in the country and therefore is not taxable. When, however, branches are operated or an agent is employed and he works in the name of the concern he represents, or when local business firms are purchased wholly or in part, then the taxes of the foreign country are directly felt. These taxes are national as well as state and local.

Nearly all countries have enacted income tax laws. In so far as they apply to business concerns, the rates have witnessed a decided enhancement due especially to the fiscal requirements resulting from War impoverishment. The rates of corporation income tax go as high as 20 per cent and over and considerable difficulty is encountered in determining what proportion of the income of an internationally operating concern was derived within one particular country. It is for the facility provided in this connection that large foreign trading concerns and manufacturers sometimes prefer to create separate corporate units in each country where a large volume of business is transacted.

Under the United States revenue laws it will be recalled that certain credits are permitted for income taxes paid at foreign sources. This provision is for the purpose of preventing the American business concern from paying taxes twice on the same income. All countries do not grant such an allowance, however, and some of them tax income derived from all sources, including foreign.

Considerable difficulty has been experienced in wrestling with the problem of double taxation. Efforts aimed at securing a uniform international understanding have been exerted by the International Chamber of Commerce and the League of Nations. Proposals have been worked out at various conferences and it is to be hoped that bilateral agreements or possibly a multilateral convention will finally result.[11] Efforts in this direction were made at the Geneva Double Taxation Conference in October, 1928. At this gathering, three model conventions were drafted but nothing was accomplished in procuring the adoption of any of them. The matter was subsequently taken up at the Amsterdam Congress of the International Chamber of Commerce in July, 1929,[12] and one uniform code of principles to govern the elimination of double taxation was drafted, incorporating the most commonly accepted views formerly considered.

According to this code, taxation of interest and dividends lies wholly within the province of the country of domicile. This is the country in which an individual has his permanent residence, and with respect to business concerns it is the location of the management or the country in which it is legally registered. On the other hand, income from real estate and mortgages thereon; from permanent business establishments, *e.g.*, factories, branches, etc.; salaries paid; and similar items are taxable in the country of residence. The agreement does not consider independent local distributors or agents or local companies owned or controlled as indications of permanent establishment in the country of residence.

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[11] See *Double Taxation Relief*, Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 523.

[12] International Chamber of Commerce, *Resolutions Passed at the Amsterdam Congress* (July 8-13, 1929), Supplement No. 1 to *World Trade*, October, 1929.

A turnover tax on gross sales is levied in many countries. It does not as a rule apply to exports and imports delivered directly to the foreign customer, but rather to sales made in domestic trade. Property taxes are levied throughout the world on such property as may be held, including that owned by foreigners. Various other national taxes may be assessed, such as stamp taxes on bonds, documents, shares of stock, etc.; special excise taxes, as on liquors, tobacco, etc.; automobile taxes and amusement taxes. There are also sales taxes, as in Canada; industrial taxes, as in Germany, and many others. Taxes of a more local nature include a patente tax. This is a sort of a license or annual business levy and is often a flat sum depending upon the size of the business. Local property taxes are also assessed, and levies are made for roads, schools, churches, protection of labor, and other purposes.

Generally speaking, taxes are imposed irrespective of nationality. At times the wording of a law may be such as to impose a greater burden upon foreign than upon domestic concerns, and in practically every instance where this has occurred in recent years, the effect has been to force foreigners to organize companies abroad and thus become fully nationalized. Thus, South Africa imposes a tax on the total capital of a company irrespective of the portion devoted exclusively to South African business. By forming a local company under the laws of the country this provision is complied with and the unusual tax provision is evaded.

Legal Procedure.—In case litigation in foreign countries should become necessary, extreme care is called for in the steps to be taken and the decision to carry a matter into the courts is in itself a weighty one.[13] The admonition now generally accepted as to the wisdom of avoiding litigation, whenever possible, applies with added emphasis when foreign litigation is considered.

If a number of American firms are involved in the bankruptcy proceedings of the same foreign concern, it may be advisable to form a protective committee and to retain an attorney. The appointment of the attorney may be made from the American legal firms that specialize in foreign law, particularly the law of the jurisdiction in which the case is to be tried; or a lawyer residing in the foreign country may be selected. In either case a sufficiently comprehensive power of attorney is required in order to establish before the court the authority conferred upon the attorneys.

Court procedure in code-law countries differs in many respects from that followed in the United States and England. As an example of this procedure, a description of the French plan follows:[14]

> A distinction which does not exist in American law is made in France between civil and commercial courts; all matters relating to commercial transactions normally come before the commercial courts. Such courts are composed of lay judges, elected by the merchants of the various cities from among their number. They are well acquainted with the business world, with trade customs and are in a position to appreciate the merits of most cases. When intricate legal questions are involved, the parties are often obliged to go before a court of appeal, composed of professional judges. There is a right of appeal in all commercial cases in which the damages are assessed at more than 1,500 francs and when appeal is made, the entire case (law and fact) is tried again before the higher court.
>
> There is no jury in civil or in commercial cases. If the case is complicated, the Court appoints a referee, who summons the parties, their attorneys, and witnesses to informal conferences, during which he endeavors to establish the facts of the case and the points of view of the parties. There are practically no rules concerning evidence. The referee draws up a report for the court and suggests what verdict should be given. One of the three judges of the court examines the report, summons the parties and their attorneys to his chamber, hears any comments they may have to make on the report, draws his own conclusions and prepares a draft verdict, which is generally adopted by the other two judges and becomes the final verdict.

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[13] For a further presentation of this phase of the subject, *see* Chapter XXVII.

[14] Bureau of Foreign and Domestic Commerce, Division of Commercial Laws, Special Circular No. 221, March 13, 1930.

If the case is simple and particularly if it is unnecessary to call witnesses, no referee is appointed (with rare exceptions) and the case is immediately heard by one of the judges, who reports to his two colleagues.

In the majority of cases, there is no trial before the whole court. Litigants may, however, insist upon having a hearing in court, but even in those circumstances witnesses do not come before the bench, but are always heard by a referee.

Written documents (letters, drafts, abstracts of books, carbon copies, etc.), are used as evidence to a greater extent in France than in the United States. Any sort of document may be produced, the court being always free to determine its reliability and value as evidence. Affidavits from the parties themselves have very little value.

Cases for trial by the commercial courts as a rule are called from three to nine months after they are filed.

In most cases, verdicts of the commercial courts can be enforced in spite of the fact that appeal has been made. However, plaintiffs rarely take advantage of that possibility, because they may become liable for damages if the defendant wins in the higher court.

The civil courts concern business men for two reasons: (1) All appeals from the commercial courts come before the civil court of appeal; (2) certain matters of great importance from the commercial point of view are heard by the civil courts (for instance, all cases involving patents).

Civil judges are professional lawyers. The courts are composed of three judges, who decide questions both of law and of fact. There is no jury. The State is represented by a district attorney, who is present when the case is tried and has a right to intervene at any time in order to state the case from the point of view of public policy and application of the Law; in America, the State is represented only in criminal cases.

Witnesses do not appear in court; lawyers come before the court with whatever evidence in writing they may have and if they consider it is not sufficient, they ask permission to prove certain definite facts. The court may or may not grant such permission. In the affirmative case, it appoints a judge who is not a member of the court to hear the witnesses. There is no cross-examination; the witnesses are merely questioned by the judge appointed. No stenographic record of the answers is kept; they are condensed by the judge and dictated to his clerk and signed by the witnesses. When the case returns to court, the attorneys base their arguments upon the resume of the evidence given by the various witnesses.

In the civil courts, parties must be prepared to wait at least one year between the date of filing the suit in court and the day on which the verdict is given. That, of course, depends on the court, some being less crowded than others and the period mentioned here should merely be taken as an average.

There is always a right of appeal in cases involving more than

1,500 francs. The higher court is composed of five professional judges; there is no jury. It reconsiders the whole case (law and fact). About one year and a half elapses between the verdict of the lower court and that of the court of appeal.

If an error in procedure is alleged to have been made by the court of appeal, the case may be brought before the court of cassation. If the latter confirms that such error has indeed been made, it refers the case to another court of appeal. The enforcement of the verdict of the first court of appeal, however, is not suspended while the case is before the court of cassation.

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CHAPTER XXXIV

TRADE-MARKS IN FOREIGN COUNTRIES

A trade-mark is a distinctive symbol of some description permitted by law and indicating a common origin and quality for all goods on which it is used, thus distinguishing them from the products of others. It is, therefore, a means whereby the owner may establish good-will among his trade; and at the same time, it assures purchasers of the goods on which it appears that the quality and identity of such goods are the same as buyers have been led to expect from past dealings.

As stated by Judge Coxe in the case of Shaw Stocking Company *vs.* Mack, the purposes of a trade-mark are, first, "to protect the party using it from competition with the inferior articles, and second, to protect the public from imposition."[1] In other words, "the trade-mark brands the goods as genuine, just as the signature to a letter stamps it as authentic."

The widespread use of trade-marks by manufacturers and traders, and the earnest efforts that have been made by nations, either alone or in concert, to establish a legal status for trade-marks, are evidences of the high value which modern business imputes to them. With the increasing competition engendered by modern developments in production and distribution, the value of some means whereby the product of any particular concern may be "individualized" is readily understood; and with the rapid expansion in the methods and technique of advertising, the trade-mark has been elevated to a prominent position in the world-wide struggle for business. The value of a trade-mark for use in the United States is generally recognized and of no less importance is the trade-mark for use in the foreign field. The fact that literacy is so low in many of the potential markets for American products further enhances the value of trade-marks as sales stimulants, as greater dependence must be placed upon a means of identification such as the trade-mark provides.

As recognized in the United States (and generally true also in foreign countries) a trade-mark may consist of a "distinctive word, emblem, symbol, or device, or combination of these";[2] and "names, ciphers, monograms, pictures and figures may be used and numerals united."[3]

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[1] 12 F.R. 707.

The selection of a trade-mark is always a weighty problem. The domestic business man and the importer both deal with the United States as a market, where the owners of the mark have the advantage usually of sharing the same nationality and consequently possessing a knowledge of American psychology. In foreign trade, the problem is more complex and demands a wider knowledge of business psychology. A trade-mark that is suited to the American market may also be satisfactory in Australia, New Zealand, and South Africa, but it may hinder sales in China or Egypt or Brazil or India. For articles that sell on a quality basis, the problem is less difficult than for commodities purchased largely by the poor and illiterate. In the latter case, it is not unusual for a concern to employ several different brands or trade-marks for use in different foreign markets, each mark embodying the peculiar requirements of the market in which it is used.

Color at times plays an important rôle. In some parts of the world, gaudy combinations may be preferred and in others, more somber tastes may prevail; some colors mean good luck and others the reverse. The same difficulties arise in connection with pictures that are used. Scenes that may appeal in one part of the world may at the same time be entirely neutral or even repelling in other parts.[4] Care is, therefore, required in recognizing foreign preferences and prejudices when selecting a trade-mark for use abroad. Unless a mark is to be specifically employed in a particular country or area where the psychology can be studied and worked into the mark, it is far more advisable, as a general rule, to employ a general trade-mark; if a word is embodied, it should be capable of pronunciation anywhere; and above all, it should be applied extensively and ceaselessly so that the mark will become firmly impressed.

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[2] *General Information about Protection of Trade Marks, Prints and Labels*, Commissioner of Patents, April 1, 1928, p. 2.

[3] Shaw Stocking Company *vs.* Mack *et al.*, 12 F.R. 707.

[4] According to Article 3 of the Inter-American Trade-Mark Convention of 1929, registration of a mark may be refused if it contains "representations of racial types or scenes typical or characteristic of any of the contracting states, other than that of the origin of the mark."

TRADE-MARK LAWS

Practically every country in the world has enacted legislation bearing on the subject of trade-marks and in many respects these laws are fairly uniform. They generally define a trade-mark and set forth the types of marks that are not acceptable for registration.

In a general way, these prohibitions are: (1) words that pass in such current usage that an exclusive ownership thereof cannot be permitted; (2) marks containing scandalous or immoral matter deemed contrary to public decorum; (3) coats of arms, flags, armorial bearings or other insignia of any government, state, municipality, royalty, etc.; (4) portraits of living persons used without their written consent; (5) marks so closely related to existing, recognized and/or registered trade-marks as to cause confusion or deception; (6) the emblem of the Red Cross; and, (7) marks lacking distinctive character or consisting exclusively of words, symbols, or signs that serve in trade to designate the class, kind, quality, quantity, use, value, place of origin of the products, or time of production.

Another subject of legislation relates to the procedure to be followed in registering trade-marks. These steps are relatively simple and they usually consist of: (1) filing a statement that establishes the identity of the applicant, whether he be the owner of the trade-mark or his legally appointed representative; (2) filing a description of the trade-mark, together with an electrotype and a stated number of prints or reproductions of the trade-mark; (3) filing a statement of the class of goods to which the mark is to be applied. Many countries provide an insufficient number of classes of merchandise for this purpose, and, as a result, it is possible, by a single registration, to cover a wide range of commodities. This practice may be compared with the United States law, under which forty-nine distinct classes are recognized; (4) filing a legalized power of attorney, in case a representative and not the owner registers the mark, as is usually the case when foreigners register; (5) payment of the fees required in the particular country; and, (6) publication of the application in the press of the country. If the director of the government department in which applications are filed decides that all of the requirements have been properly complied with, the registration is granted and notice thereof is published in the *Official Gazette* or *Boletin Oficial.*

Although these provisions are important, the most significant provisions of trade-mark laws relate to the bases on which ownership may be acquired. Here a striking difference is encountered. In the United States, the United Kingdom and British countries where the so-called common law is in vogue, ownership of a trade-mark is predicated upon *use;* while in the code-law countries, ownership is acquired by the act of *registration.* There are registration laws in common-law countries, but registration is recognized only as prima facie evidence of ownership acquired by use. In the United States a trade-mark may not be registered until it has been in use for one year. As summarized in a pamphlet published by the Commissioner of Patents in the United States, the value of registration in a common-law country may thus be shown:[5]

> Registration does not create the right to use the mark but gives prima facie right to prevent others using it.
>
> Registration gives prima facie evidence of ownership, the right to sue in the U. S. courts with increase of damages and destruction of infringer's labels, etc., together with the right to prevent importation of goods bearing an infringing mark.
>
> On complying with regulations of the Treasury Department and filing there a copy of a registered mark the collectors of customs will prohibit importation of foreign goods copying or simulating the mark.
>
> The registration of a mark protects not only that mark but its equivalent title in appearance or a word like it in sound.
>
> Many foreign countries will not register a mark for a citizen of the U. S. unless it is registered in the U. S. Patent Office.

These practical considerations bear decided weight especially for exporters and importers. Although ownership of a mark in the United States resides in the person who first used it, a supplementary act of registration is essential for the importer in preventing the importation of merchandise bearing a counterfeit mark; and this is likewise necessary in case the exporter desires to acquire trade-mark rights in most foreign countries.

In contrast with this policy, the law of trade-marks in code countries provides something like the following: "In order to secure exclusive ownership for a mark it is necessary that the party interested have it entered into the Register of marks kept in the Department of Manufacturing Industries of the Department of Public Works and Education'' (or some other department of the government). In view of this policy, it is a comparatively simple matter for any person to register a trade-mark and thereby acquire title, even though the mark is used by some one else, but is unregistered. In such case, infringement is perpetrated.

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[5] Commissioner of Patents, *op. cit.*, pp. 3-4.

Infringement not only consists in appropriating the actual trade-mark owned by another person, but also in adopting a mark so similar in appearance, phonetic qualities, or meaning as to constitute an effective infringement. However, when the laws of certain countries permit any one by the mere act of registration to acquire for himself the valuable rights that belong to the proper owner, a more appropriate term to be employed is piracy. In 1925, a man in Germany threatened to hold up all American automobiles with disk wheels, claiming the ownership of the patent rights thereon. At one time, a Spaniard registered the trade-mark of all prominent names of American automobiles and only through the combined efforts of the State Department and other government agencies was the claim defeated.[6]

> An American manufacturer of hosiery . . . was informed that an unauthorized person in Peru had adopted a label almost identical in design to that used by him for a number of years—with the result that many customers purchased an inferior product, believing it to be the genuine American article. In Batavia, Java, a local merchant made application for the registration of a trade-mark containing the picture of a world-famous movie actress, to be used in the sale of jewelry. Attorneys for the actress took immediate action to prevent the granting of such a registration.[7]

In the summer of 1927, a business man from South America visited a large number of radio manufacturers in the United States and "in the spring of 1928, in his own country . . . he proceeded to register in his own name about 40 trade-marks, including those of most of the popular radio brands in use in the United States."[8]

In countries of the common-law group, where registration is regarded as only prima facie evidence of ownership, an application for registering a trade-mark may be defeated through court proceedings by proving the prior use of the mark by the rightful owner. This action involves expense and worry, but it will avail even in the absence of registration.

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[6] *Automotive Industries*, Dec. 10, 1925, p. 980.

[7] *Commerce Reports*, April 29, 1929, p. 254.

[8] *Ibid.*

"In some instances in these [common-law] countries the registration will be allowed to remain in the name of him who received the certificate of registration, but he will not be permitted the exclusive use thereof, and the first user may market his goods under a similar trade-mark for a certain period of time."[9]

In code-law countries, however, the problem is far more serious, since registration provides the sole basis of ownership. Applications for the registration of trade-marks in these countries may be defeated in case the rightful owner takes the necessary steps within the short period of time (often thirty days) allowed by law to oppose such registration. This period begins with the date of the filing of application for registration. In the case of Argentina, exceptionally prompt action is required, since a power of attorney, duly executed before the Argentine consul in the foreign country must be in the Argentine Patent Office within this thirty-day period. In the case of some countries, including Brazil and Japan, the period is sixty days.

American traders are advised through *Commerce Reports* of applications to register marks which, in the opinion of the trade or consular officials in the foreign country, are likely to be infringements of American trade-marks. Similar watchfulness will be exercised by a trade-mark and patent attorney retained by an American concern. It should be noted in this connection, however, that unless an American has registered his trade-mark in the United States Patent Office, he will have no basis for protesting an application in many code-law countries.

After a foreigner has once registered in his own country the mark of another person or firm, there is generally no way, after the period for opposition has expired, of depriving him of the ownership of the mark, unless fraud can be proved. The problem then is to decide what should be done to escape with the least damage to the exporter's good-will. One way of procuring an assignment of the trade-mark is to pay the registered owner the sum of money he demands, and in case this is reasonable, it is probably the best thing to do. Quite often, however, the pirate, realizing the predicament in which he has placed the rightful owner, will hold out for an exorbitant sum. If this cannot be reduced and the exporter still refuses to pay, all rights to the trade-mark in that country are lost to the exporter. He must then withdraw from the market entirely or adopt another trade-mark.

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[9] *Ibid.*, May 7, 1928, p. 326.

Another class of infringements, at first glance less outrageous but none the less irritating than these piratical instances, are those perpetrated by agents or other persons who are affiliated with the exporting concern whose mark is registered. An American exporter of trade-marked goods may appoint a foreign agent to represent the line in a foreign country, and fail to exert any effort to procure trade-mark protection there. The agent, realizing the danger his principal is running, proceeds to register the mark for him. If he registers it in the name of the exporter a debt of gratitude is incurred, but if the agent enters the mark in his own name, an entirely different situation may arise. Of course, he will defend such action on the grounds that some other person, wholly unconnected with the exporter and possibly antagonistic to him, might have registered the mark before him. At the same time, the ownership of the trade-mark is vested in the agent and this control over the good-will engendered by the mark will act as a powerful leverage in case the exporter should decide to discontinue the agency system, to select a different agent, or perform any other acts inimical to the interests of the agent.

In view of the extent to which American foreign trade, particularly exports, is conducted on the agency basis, the importance of the trade-mark problem from this angle is clearly seen. Moreover, the problem is aggravated by the natural reticence of some exporters to discuss this matter with the agent. The principal may feel that if he should press the question of registration the agent will become offended; or that the agent is reliable and would not do anything inimical to the interests of the principal. This natural delay in taking the necessary action to procure the assignment of a registration shortly outlaws any such possibility, and the mark remains the undisputed property of the agent.

Obviously the surest way of preventing such action on the part of an agent, is to include in the agency or distributor's contract a clause in which the agent agrees not to appropriate to himself any rights that the principal may hold in the trade-mark. Such a clause might be worded as follows:

"The dealer agrees that should this agreement be terminated at any time for any reason whatever, the dealer will relinquish and waive, without compensation, any right or title to the use of the word——in connection with the manufacture or sale of——machinery or parts thereof, it being understood that the use of the word——and of all designs, patents, trade names, or trade-marks registered by the dealer or usable in connection with the company's product or business, shall be the property of the company exclusively and subject to such disposition as the company may desire to make of same."

Another type of clause calls upon the dealer not to register the trade name or trade-mark and to relinquish upon demand or at the termination of the contract any rights that he might have already or hereafter acquired. In such ways the trade-mark problem, in so far as it relates to agents, may be settled before any emergency arises.

It is worthy of note, however, that some countries in the code-law group provide methods of defeating the piratical practices otherwise permitted by law. For example, Article 4 of the Mexican trade-mark law of 1928 declares that "the right to the use of a trade-mark obtained by virtue of its registration, shall be ineffectual against third parties who have been using the said trade-mark in the Republic of Mexico for more than three years prior to the date of the said registration." Moreover, by the provisions of Article 39 of the same law, the registration of a trade-mark is considered void if the rightful owner can prove that he has used it before this original registration and provided he applies for registration within three years thereafter; and further, in case a trade-mark has been used and is registered in a foreign country, the rightful owner may void prior registration in Mexico if deposit is filed within six months after the prior registration and provided the foreign nation grants the same rights to Mexicans under its laws. In Article 25, a priority of the same period of six months is granted to foreigners for entering their mark in Mexico after they have registered it in their own country, provided reciprocity is extended by the foreign country.

Chile has likewise taken a somewhat different attitude toward trade-mark protection. The law of 1925, as promulgated in 1928, requires a preliminary investigation to establish the business affiliation of the applicant for registration and in connection with which he is to employ the mark, and also to determine "that the mark has not been registered or has not been used by third parties in the country at least one year before." Opposition to an application may be made within thirty days by business concerns that may be using the mark in question in the country without having had it registered.

INTERNATIONAL CONVENTIONS AND AGREEMENTS RELATING TO TRADE-MARKS

In view of the commercial importance of trade-marks and the comparative ease with which valuable rights therein may be lost or stolen, several attempts have been made by groups of nations to arrive at an understanding that would remedy or mitigate the evils. With the two opposing systems of common and civil law throughout the world, it is difficult to reach agreements that are entirely satisfactory to both groups, but some progress has been made in arriving at mutual understanding and in providing protection.

The International Convention for the Protection of Industrial Property was drafted at Paris in 1883 and was modified at Brussels in 1900 and at Washington in 1911. Nearly all of the European nations, some countries in Latin America, Asia, and Africa, together with Australia, New Zealand, and the United States are parties to this agreement. The headquarters of the Convention are located at Berne, Switzerland. Under this Convention, the signatory countries agree to (1) register and protect the trade-marks of the citizens of other signatory states to the same extent that national trade-marks are protected; (2) register the trade-marks of the citizens of other signatory states in the form in which they are registered in the country of origin; (3) acknowledge the property rights residing in trade names without the formality of registration; (4) grant a priority period of four months (twelve months for patents) from the date of application for registration in the country of origin for making application for registration in any signatory state.

Application made within the time limit prescribed is considered as simultaneous with the application for deposit in the country of origin.

The Madrid Treaty of 1891, to which the United States is not a party, provides for the establishment of an International Office in Berne to act as an agent for the registration of trade-marks in signatory countries. Upon procuring registration in the country of origin, the owner of a trade-mark may receive international registration through the central bureau. It is provided, however, that any signatory state may reject applications for trade-marks that do not conform to the national laws. The central bureau is in time advised of such rejection and accordingly notifies the owner, who then is obliged to make arrangements for registering directly.

A third international convention embraces all of the countries that are members of the Pan-American Union. This Convention for Trade-Mark and Commercial Protection (now called Inter-American Trade-Mark Convention) was originally signed at Buenos Aires in 1910. Under the arrangement, international registration through bureaus located at Havana and at Rio de Janeiro was provided, but the system was unsuccessful. As a result, a revised trade-mark convention was adopted at Santiago, Chile, in 1923 to supplant the preceding agreement. Further difficulties arose and in Washington, on February 20, 1929, a third convention was adopted, which, so far as it relates to trade-marks, attempted to remedy the defects of the 1923 arrangement.

The principal provisions of this convention, together with the accompanying protocol, are (1) the contracting states bind themselves to grant to the citizens of other signatory countries the same rights and remedies extended by their laws to their own nationals with respect to trade-marks; (2) the Inter-American Trade-Mark Bureau at Havana is continued for the international registration of trade-marks in all countries that have ratified the convention, provided the country of origin has also ratified. The procedure is for the owner to apply in the office of the country of original registration for the deposit of the mark in the countries he specifies. Such application is transmitted to the Inter-American Trade-Mark Bureau, together with "a postal money order or draft in the amount of $50.00 as a fee for the Bureau, plus the amount of the fees required by the national law of each other of the countries in which he desires to obtain protection for his mark''; (3) commercial names are recognized as conveying inherent property rights without the necessity of registration; (4) a priority period of six months is allowed the depositor of a trade-mark from the date on which deposit is made in any State within which to gain simultaneous registration in another State. As is the case with the International Convention also, at the expiration of this priority period, infringement by an unwarranted party registering the same mark is possible. This provision was included in the 1910 Convention and was never annulled; (5) important provisions relate to infringement or piracy. Article 7 declares that any owner of a mark who is protected in one of the contracting states in accordance with its domestic law and who learns of another party using or applying to register his trade-mark in another signatory country, may, upon proof that the other party had knowledge of the existence and continuous use by him of the trade-mark in any of the contracting states, claim preferential use or priority to register it in the country in question.

Moreover, under Article 8 of the Inter-American Trade-Mark Convention, the cancellation of a mark already registered in any signatory country at the time the owner attempts to deposit the identical mark in the same contracting state, may be accomplished by proving (1) that he enjoyed legal protection for his mark in another of the contracting states prior to the date of the application for the registration or deposit which he seeks to annul; and (2) that the infringer had knowledge of the use, employment, registration, or deposit in any of the contracting states of the mark for use in connection with the specific goods to which the interfering mark is applied, prior to adoption and use thereof or prior to the filing of application or deposit of the mark that is sought to be cancelled; *or* (3) that the owner has traded or trades with or in the country in which cancellation is sought, and that goods designated by this mark have circulated and circulate in that country from a date prior to the filing of application and deposit of the mark, or prior to the adoption and use of the same.

As for agents, representatives, or customers of the owner of a trade-mark who have registered or applied for registration of the mark in any signatory state, Article 12 grants the original owner the right to demand its cancellation or refusal and to request and obtain the protection for himself.

Such provisions, if fully adopted by all of the member nations of the Pan-American Union, will go far in removing the piracy of trade-marks which American exporters experience in those countries.[10] Full support of the preceding conventions of 1910 and 1923 was unfavorably influenced, however, by the fact that the benefits are largely one-sided in that citizens of the United States own practically all of the trade-marks which the conventions aim to protect.

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[10] It should be observed that neither Argentina nor Salvador was represented at the conference; and Chile signed the Convention as binding in so far as its provisions are not contrary to the national legislation of Chile.

CHAPTER XXXV

SETTLEMENT OF TRADE DISPUTES

The problem of adjusting trade disputes, although not peculiar to foreign trade, is especially important in this branch of American commerce. Trade disputes are more difficult to avoid in foreign trade because foreign as well as American commercial customs and laws are instrumental, and because of the greater likelihood of damage in course of transportation and the somewhat more general dependence upon samples, grades, or descriptions as the basis for sales. When trade disputes do occur in foreign trade their adjustment is complicated by the greater distance between buyer and seller and frequently by the absence of direct representation on the part of the exporter, as well as by differing trade customs and laws. Growing experience on the part of exporters and importers, more careful selection of foreign agents, more precise and carefully drawn agency contracts, the establishment of foreign branches and closer acquaintance with the commodities of international commerce tend to reduce the number of trade disputes, but from the very nature of merchandise transactions, misunderstandings are at times bound to occur. Many are, of course, adjusted directly between buyer and seller, sometimes on an entirely equitable basis, and at other times by having either the exporter or the importer reluctantly accept a loss or an unsatisfactory adjustment.

CONCILIATION AND MEDIATION

When the parties to an export or import transaction are unable or unwilling to adjust an unfortunate trade dispute by dealing directly with each other, an effort at conciliation or mediation is not infrequently made. This may imply merely an attempt to allay ill will and to bring the disputants together on a more friendly basis, or it may mean that a trade association executive, an individual business man or firm or an agency of some kind, acting on the request of one of the parties or upon the mediator's own initiative, will make an attempt to adjust the dispute. Consuls, commercial attachés, and other Government agencies, as referred to previously,[1] sometimes act in this capacity without, however, having any power to compel an adjustment. Some of the many permanent organizations that provide facilities and rules governing commercial arbitration also encourage conciliation or mediation. The rules of the International Chamber of Commerce, for example, provide as follows:

Section A, Article I. (1) In the event of a business dispute arising between persons, firms or companies of different nationalities or which possess an international element or character, any of the parties to the dispute may seek the good offices of the Administrative Commission of the International Chamber of Commerce with a view to the settlement of the dispute by the acceptance of friendly suggestions to be made by that Commission.

(2) The party making such request to the Administrative Commission shall do so in writing through his National Committee and shall supply with the request copies of relevant papers and documents.

Article II. (1) Upon receipt of such request and of the relevant papers and documents, the Chairman of the Administrative Commission shall inform the other party to the dispute through their or his National Committee and shall invite them or him to accept the intervention of the International Chamber and in that event to submit their or his statement of the case in writing with copies of relevant papers and documents.

(2) Upon the parties agreeing to accept the intervention of the International Chamber, the Chairman of the Administrative Commission shall appoint according to the nature and importance of the case two or more members of the Commission who shall wherever possible be one member of the nationality of the applicant and one member of the nationality of the other party to the dispute. The Chairman and these gentlemen (hereinafter called the "Conciliation Commission") shall acquaint themselves with the details of the case and procure any information required for this purpose communicating with the parties to the dispute through their respective National Committee, and shall hear the parties if possible.

(3) The parties may appear either in person or assisted by Solicitors or Counsel; they may be represented by duly accredited proxy.

Article III. (1) After having examined and studied the case and if possible heard the parties, the Conciliation Commission shall submit to the parties terms of settlement.

(2) Should a settlement result, the Conciliation Commission shall

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[1] *See* Chapters VI, VII, VIII.

draw up a record of the settlement which shall be signed by the Commission and by the parties thereto.
(3) When the parties do not appear in person or by proxy, the Commission communicates the terms of settlement to the Chairman of the National Committees concerned, or when there is no National Committee to an Organization Member of the International Chamber and requests them to use their influence with the parties to induce them to accept the settlement proposed by the Commission.

Article IV. (1) Should a settlement not result, the parties shall be at liberty to submit their dispute to arbitration or to appeal to the courts should they so desire, unless they are bound by an arbitration clause.
(2) Nothing that has transpired in connection with the proceedings before the Conciliation Commission shall in any way affect the legal rights of any of the parties to the dispute whether in an arbitration or in a court of law.[2]

The American Chamber of Commerce in London, which has established a "Tribunal of Arbitration," has likewise stated that its interest in conciliation and mediation has in no way been diminished:

> The Chamber desires to make it quite clear that this provision of the means of arbitration does not diminish its interest in the work of mediation and conciliation, wherever this greater service (for it is greater to prevent a quarrel than to provide even the best possible means of adjudicating upon it) is found to be practicable. Indeed the Chamber would desire to emphasise its readiness in any sort of commercial difficulty at any time and in any circumstance if the parties concerned are willing that they should do so, and friends will be glad to hear that, as in the past, the Chamber's services of mediation and conciliation will be rendered without charge, and as a willing contribution to the promotion of good and happy relations in business.[3]

Trade disputes are frequently adjusted directly between the parties concerned or through the medium of third parties even after they have been submitted for arbitration or after they have been taken to court. Should the disputing parties agree upon a settlement during the course of an arbitration proceeding, they not infrequently request the arbitrators to give to their mutual agreement the status of an award, so that it will be binding in case either party later becomes dissatisfied, and often an arbitration tribunal accedes to such requests. Courts of law not infrequently suggest the direct settlement of a trade dispute that has become the basis of litigation.

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[2] "Rules of Conciliation and Arbitration," International Chamber of Commerce (1929).

[3] "Commercial Arbitration, the Facilities Recently Provided by the Establishment of a Tribunal of Arbitration, etc.," American Chamber of Commerce in London.

Although conciliation or mediation brings about the adjustment of many foreign trade disputes, efforts of this character are not always successful. Not only may the parties concerned be unable or unwilling to make a satisfactory adjustment, but either or both may fear that conciliation or mediation is too apt to result in a compromise. Although commercial arbitration has not always been free of the charge of compromise, there is a growing feeling that arbitration is more likely to result in an award based upon the merits of the points at issue, particularly if the award is one enforceable at law and is the result of a binding arbitration clause providing for the arbitration of disputes that may occur in the future.[4]

COMMERCIAL ARBITRATION

Advantages of and Reasons for More Extensive Use.—Should the disputing parties fail to get together directly or through the good offices of a conciliator or mediator, the alternative is either litigation in the courts or arbitration. As commercial arbitration is voluntary, except under an old Pennsylvania statute, which provides that either party to a civil dispute in court may force arbitration,[5] it is dependent upon the voluntary inclusion of an arbitration clause in contracts or, in the absence of such a clause, upon the voluntary submission of the dispute after it occurs. It is making headway largely because of the shortcomings of litigation in matters involving trade. Litigation is too apt to be costly, to occasion long delays during which business capital is tied up and trade is at a standstill, and to disrupt business friendships. Juries, moreover, may be inclined to compromise disputes, and both juries and judges may be poorly equipped to decide a trade dispute, a fair adjustment of which may depend upon complete understanding of a complicated business transaction. Many trade disputes are not matters of law but of fact, and, in many instances, such questions of law as do arise in interpreting a business contract are of secondary importance. The tendency of commercial arbitration is in the direction of tribunals consisting of unbiased arbitrators who are experts in their line, or at least are business men who are familiar with the sort of facts and practices that arise in the course of a trade dispute. In comparison with court litigation, commercial arbitration lays claim to lower cost, speedier decision, fewer instances of permanent loss of customers, and more intelligent understanding of the nonlegal points at issue in trade disputes.

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[4] American Arbitration Association, "The Trend of Commercial Arbitration," December, 1927.

[5] Pennsylvania Act of 1836, applicable except in the city and county of Philadelphia.

The more extensive use of commercial arbitration is also due in part to higher business standards and better business ethics; it has indeed been said that commercial arbitration tends to improve business standards and business ethics.[6] Its use has undoubtedly been furthered by the enactment of improved arbitration statutes here and abroad, and by the organized efforts of commercial organizations, many of which have conducted campaigns of education, published carefully devised arbitration rules, set up permanent arbitration machinery and taken active measures to place their facilities at the disposal of exporters and importers as well as of business men engaged in domestic commerce.

Types of Commercial Arbitration Tribunals.—Commercial arbitration tribunals may, to facilitate description, be classified (1) according to their temporary or permanent character and the manner of their selection, and (2) according to the number and qualifications of the arbitrators. The setting up of a temporary tribunal to arbitrate a particular dispute is a long-established practice, but one that has given way to some extent to the utilization of permanent machinery created in advance. When the business contract does not contain an arbitration clause, or when the arbitration clause does not specify a tribunal already in existence, the parties concerned may, of course, agree to create a temporary tribunal in accordance with their own wishes; or, in case they agree to arbitrate under the terms of an arbitration statute, so as to be assured of a binding award, they will bring about the appointment of a tribunal as provided for by law. They variously agree upon a single "umpire"; upon all of the members of a larger tribunal; or each may select an arbitrator, these to select a third member or umpire. They may utilize the arbitration panels maintained by some commercial organization as a list from which they will select their arbitrators, and they may call upon the permanent arbitration committee or an executive of such an organization to make selections. The Chairman of the Committee on Arbitration of the Chamber of Commerce of the State of New York, for example, sometimes receives power of attorney from foreign merchants, and the London Court of Arbitration is one of many permanent organizations that undertake the selection of particular arbitration tribunals. When arbitration proceedings are to be conducted under the terms of an arbitration statute, a court of law, if it is legally authorized to do so, may appoint an arbitrator "when for any reason the party fails to avail himself of his right of selection."[7] The United States Arbitration Act of 1925, Section 5, for example, provides:

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[6] *Annual Report of Committee on Arbitration, 1927*, Chamber of Commerce of the State of New York; "Commercial Arbitration: A Practical Plan," John A. Abersold, *Annals*, March, 1930, p. 279; C. F. Birdseye, *Arbitration and Business Ethics.*

> That, if in the agreement provision be made for a method of naming or appointing an arbitrator or an umpire, such method shall be followed; but if no method is provided therein, or if a method be provided and any party thereto shall fail to avail himself of such method, or if for any reason there shall be a lapse in the naming of an arbitrator or arbitrators or umpire, or in filling a vacancy, then upon the application of either party to the controversy the court shall designate and appoint an arbitrator or arbitrators or umpire, as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein; and unless otherwise provided in the agreement the arbitration shall be by a single arbitrator.[8]

The tendency of commercial arbitration, particularly in international commerce, is toward the greater use of the facilities provided by permanent commercial organizations or permanent arbitration tribunals. Organizations such as the International Chamber of Commerce, the London Court of Arbitration, the

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[7] *The Practice of Commercial Arbitration in the United States*, American Arbitration Association, p. 39.

[8] United States Arbitration Act of Feb. 12, 1925, effective Jan. 1, 1926.

American Chamber of Commerce in London, the Chamber of Commerce of the State of New York, the Chamber of Commerce of the United States, the Chamber of Commerce of Buenos Aires, and the American Arbitration Association are typical organizations that have adopted definite arbitration rules and maintain permanent committees or tribunals to facilitate the arbitration of trade disputes in whatever trade or industry they may occur. Many organizations with specialized interests also make provision for commercial arbitration in their particular fields. American grain, cotton, coffee, sugar, rubber, and other organized commodity exchanges commonly provide for the arbitration of trade disputes arising out of exchange transactions.

Among the foreign commodity exchanges that have become important in international trade arbitration, special mention should be made of the London Corn Trade Association, the Liverpool Cotton Association and the Bremen Cotton Exchange. An especially large number of trade associations have adopted rules and maintain facilities for the arbitration of disputes in their respective trades or industries. The Grain Dealers' National Association, the North American Export Grain Association, Inc., the National-American Wholesale Lumber Association, the American Cotton Shippers' Association, the Dried Fruit Association of California, the Silk Association of America, the National Association of Importers of Hides and Skins and the Council of Arbitration of the Shoe and Leather Industry, the Green Coffee Association of New York City, Inc., the Cocoa Merchants' Association of America, and the American Spice Trade Association are examples of trade associations and trade association tribunals that at times are factors in the arbitration of export or import trade disputes. The arbitration rules and facilities of these and many other trade associations are published in the *Year Book on Commercial Arbitration in the United States* published by the American Arbitration Association. Somewhat more general in scope are the arbitration activities of organizations such as the American Exporters' and Importers' Association.

Permanent organizations of the types referred to variously assist the disputing parties in the selection of arbitrators, or undertake the actual appointment of arbitrators. They maintain the committees and executives necessary to accomplish this purpose and in some instances to supervise the arbitration proceedings. The rules of the International Chamber of Commerce (Article 21), for example, provide that "before completing the award the arbitrators or arbitrator shall submit the same to the Court of Arbitration for examination as to its form. No award shall under any circumstances be issued until approved as to its form by the Court of Arbitration."

It will be noted that most of the permanent arbitration tribunals are national or local in character in that they are not only located definitely in a particular country, but maintain no permanent connections with similar tribunals in other countries. This does not bar them from the arbitration of import or export trade disputes, but there are some instances of arbitration tribunals that have entered into standing international arrangements. The Chamber of Commerce of the United States and the Chamber of Commerce of Buenos Aires are parties to a joint agreement under which they agree each to abide by a common code of arbitration rules, to maintain an official list of arbitrators and a permanent committee on arbitration, and to apply its best efforts to enforce arbitration awards.[9] Similar conventions have been negotiated between the Chamber of Commerce of the United States and commercial organizations of other South American countries.[10] The Court of Arbitration located in Paris, is not based upon international agreements, but it, too, is distinctly international in scope. The International Chamber of Commerce which maintains this tribunal undertook the project because it became "convinced that an organization for the settlement of business disputes of an international character is essential to the business of the world. . . ."[11] The Chamber itself is an international organization and its several national committees are utilized by the Court of Arbitration in appointing arbitrators.

> Article II—(1) The Court of Arbitration shall select the arbitrators for each case from amongst technical or legal experts to be nominated

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[9] Agreement negotiated in 1915; effective April 10, 1916.

[10] *International Year Book on Civil and Commercial Arbitration* (edited by Dr. Arthur Nussbaum in conjunction with American Arbitration Association), Vol. I (1928), p. 291; *Comparative Study of American Legislation Governing Commercial Arbitration*, Inter-American High Commission, (1928).

[11] "Rules of Conciliation and Arbitration," International Chamber of Commerce, Jan. 1, 1928.

by National Committees of the International Chamber at the request of the Court. As a general rule the Court, unless for good reason shown, shall apply to National Committees of countries other than those of the parties to the dispute, and should such National Committees possess lists of arbitrators, the Court shall as far as possible select the arbitrator or arbitrators from such lists. (2) As a general rule the Court of Arbitration shall appoint but one arbitrator for each case. It may, however, appoint three arbitrators if the case warrants the appointment of three arbitrators. It shall appoint three arbitrators whenever such is the wish of the parties. When three arbitrators are to be appointed the parties may, however, if such is their wish, either agree among themselves on the choice of the three arbitrators or they may select one arbitrator as far as possible from the lists of arbitrators of their own National Committee. When the parties each select one arbitrator, the Court shall appoint an umpire in accordance with the terms of paragraph 1 of this article.

Several trade associations such as the Green Coffee Association of New York City, Inc., and the American Spice Trade Association are also international in scope.

From what has already been said it is clear that there is no uniformity as to the number of arbitrators comprising an arbitration tribunal. There may be one arbitrator or umpire, or there may be two or more arbitrators and in the latter case all may serve on a common footing or one of them may act as the deciding umpire. There is, moreover, no uniform standard as to the qualifications of arbitrators. It has not been an uncommon practice to have each party appoint an arbitrator who it was understood would be his advocate, and to appoint a mutually satisfactory third arbitrator or umpire who would, in fact, decide the disputed issue. The tendency in the United States is strongly in the direction of arbitrators, all of whom are disinterested and unbiased. The more recently enacted arbitration statutes, in which the parties to a trade dispute are interested if they wish to be assured of the legal enforcement of the award, discourage the appointment of biased arbitrators. The United States Arbitration Act of 1925, Section 10, authorizes the Federal courts to vacate an award under certain conditions among which are the following:

"(*a*) Where the award was procured by corruption, fraud, or undue means, and (*b*) where there was evident partiality or corruption on the arbitrators, or either of them."

This provision also appears in the New York Arbitration Act of 1920, as amended to date, which was the first of a series of improved state arbitration statutes. Business concerns that are willing to arbitrate "outside of the law," each depending upon the other's promise to accept the award, may, of course, continue to appoint arbitrators without reference to these statutes.

Should the trade dispute of an American business concern be arbitrated abroad the selection of arbitrators may be governed by the laws of a foreign country. This will again depend upon the desire of the parties concerned to obtain an award enforceable at law. In Germany, for example, awards made under existing arbitration laws are enforceable in the courts, but one of the requirements incident to enforcement is that an arbitrator may not be a representative of either party and that "he should stand above the parties, like a judge, and render his award with the same impartiality even if not bound by the same technicalities."[12] Aside from legal requirements incident to the enforcement of awards, the tendency of commercial arbitration in Europe, as indicated by the rules of some of the principal European tribunals, is toward the appointment of unbiased arbitrators rather than of partisans. The appointment of an additional umpire does not always signify that the arbitrators are advocates; an umpire sometimes is appointed for the purpose of deciding the issue in case the arbitrators fail to agree.

Commercial Arbitration Clauses.—Definite clauses providing for the arbitration of trade disputes that may arise in the future are, to an increasing extent, being inserted into export sales and agency contracts. Experience has shown that better results can, as a rule, be obtained if arbitration is agreed to before a dispute arises, and the number of states and countries in which such clauses are legally valid and irrevocable is growing. The arbitration clauses found in some contracts are detailed, particularly when the future arbitration provided for is not subject to the rules of a permanent organization, but the tendency is toward compact and more or less standardized clauses.

When the arbitration rules of the International Chamber of Commerce are agreed to the clause may simply specify that "the settlement of all disputes in connection with the interpretation or the execution of this agreement shall be submitted to arbitration in accordance with the Arbitration Rules of the International Chamber of Commerce.''

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[12] Quoted from Dr. Mittelstein, President of the Court of Appeal, Hamburg, "Law and Practice of Arbitral Tribunals in Germany," in the *International Year Book of Civil and Commercial Arbitration*, Vol. I (1928), p. 40.

The standard clause provided for in the joint agreement of the Chamber of Commerce of the United States and the Chamber of Commerce of Buenos Aires is as follows: ''All disputed questions which may occasion controversy relating to this contract shall be submitted to arbitration under the rules adopted jointly by the Chamber of Commerce of Buenos Aires and the Chamber of Commerce of the United States of America.''

The Cocoa Merchants' Association of America recommends the following very brief Commercial Arbitration clause: ''Any dispute arising under this contract shall be settled by arbitration in accordance with the rules of the Cocoa Merchants' Association of America, Inc.''

The form of arbitration clause suggested by the American Chamber of Commerce in London is as follows: ''The construction and performance of this contract shall be governed by the Law of England, and all disputes which may arise under, out of, or in connection with or in relation to this contract shall be submitted to the arbitration of the Tribunal of Arbitration of the American Chamber of Commerce in London under its rules at date thereof. The parties to this contract respectively undertake to abide by and perform the award to be made in such arbitration.''

The standard clause recommended by the American Arbitration Association for general contracts is as follows: ''Any and all controversies arising under or out of or in connection with or relating to, or for the breach of the agreement of which this is a part shall be settled by arbitration, in accordance with the rules, then obtaining, of the American Arbitration Association, and judgment upon any award rendered may be entered in the highest court, state or federal, having jurisdiction in the premises.''

The Chambre Arbitrale de Paris recommends the following contract clause: ''Any dispute arising from this contract shall be submitted to arbitration by the Paris Arbitral Chamber who shall settle it finally (without appeal) and in accordance with its regulations (by-laws) which the parties declare to be acquainted with.''

Legal Aspects of Commercial Arbitration.—Although commercial arbitration has been practiced for many years both in domestic commerce and in foreign trade the progress that has been made during the past decade is due in part to the enactment of statutes that, subject to specific requirements, (1) provide a legal basis for the validity of contract clauses such as the above, providing for arbitration of a future dispute, as well as of agreements to arbitrate an existing dispute, (2) stay action in courts of law during the life of the arbitration clause or agreement, and (3) provide a means for the enforcement of awards in courts of law.

Under common law in the United States and Great Britain an arbitration award in an existing dispute can, as a rule, be enforced in a court of law, but an arbitration clause in a contract providing for the arbitration of a trade dispute that may arise in the future is not legally binding, and agreements to arbitrate existing disputes also are revocable. Either party may refuse to appoint arbitrators, may revoke the authority of arbitrators who have been appointed, and may resort to court litigation. Arbitration under common-law rule, therefore, depends upon the integrity of the parties concerned.

This handicap has been largely removed in the United States and in Great Britain by enacting arbitration statutes. In the United States many states, prior to 1920, had enacted laws that facilitated the enforcement of awards, but which did not materially change the common-law rule as to revocability. The New York State Arbitration Act of 1920 [13] was the first definitely to remove the handicap. Article 2, Section 2, provides that "A provision in a written contract to settle by arbitration a controversy thereafter arising between the parties to the contract, or a submission hereafter entered into of an existing controversy to arbitration . . . shall be *valid, enforceable and irrevocable,* save upon such grounds as exist at law or in equity for the revocation of any contract."

Section 5, with equal definiteness, provides legal machinery to enforce the specific performance of arbitration clauses and agreements; Section 4 makes provision for the appointment of arbitrators by the supreme court or a judge thereof, upon request of either party to an arbitration agreement in case the other party fails to name them; Section 5 directs the court to stay court proceedings brought in violation of an arbitration agreement or submission; and Article 3, which amends the Civil Practice Act, authorizes either party to apply to the court for an order confirming the award and to obtain judgment for enforcement. "The judgment so entered has the same force and effect in all respects as, and is subject to all the provisions of law relating to a judgment in an action; and it may be enforced as if it had been rendered in an action in the court in which it is entered."

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[13] Laws of 1920, Chapter 275; Laws of 1923, Chapter 341, New York Civil Practice Act, Article 84.

Similar state arbitration statutes have since then been enacted in Arizona, California, Connecticut, Louisiana, Massachusetts, New Jersey, New Hampshire, Pennsylvania, and Rhode Island.[14] The United States Arbitration Act of 1925 also follows the general trend of the New York State Act of 1920. It is "an act to make valid and enforceable written provisions or agreements for arbitration of disputes arising out of contracts, maritime transactions, or commerce among the states or territories or with foreign nations." Its weakness is that under the United States judicial code, the United States courts do not have jurisdiction to enforce the act unless the amount involved, exclusive of interest and costs, exceeds $3,000.[15]

The legal status of commercial arbitration agreements and contract clauses as to their validity and irrevocability, and the enforcement of awards is, of course, complicated in foreign trade because disputes in this branch of commerce involve citizens and laws of different countries. Many of the countries of continental Europe have fortunately enacted arbitration laws providing for the enforcement of arbitration awards rendered within those countries. England enacted such a statute as long ago as 1889,[16] and additional legislation was enacted in 1920 and 1924. Some of these European countries enforce awards as court judgments and others as contracts.[17] The legal enforcement abroad of arbitration awards rendered in the United States depends upon the laws of the particular foreign countries. In Germany, for example, "if the terms of a foreign award satisfy the provisions of German law, the award is equivalent to a German award," and, if "an award [is] valid and enforceable under a foreign law, but not . . . in Germany . . . an action to obtain a judgment on the award may be brought before the German court having jurisdiction."[18]

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[14] The Oregon statute, similar to the above, was modified in 1929.

[15] United States Judicial Code, Section 24, 36 Statutes at Large, 1091.

[16] Arbitration Act of 1889, 52 and 53 Vict., C.49; Administration of Justice Act, 1920, 10 and 11 Geo. V, C.81; Arbitration Clauses (Protocol) Act, 1924, 14 and 15 Geo. V, C.39.

[17] Dr. Arthur Nussbaum, "Problems of International Arbitration," in *International Year Book on Civil and Commercial Arbitration*, Vol. I, p. 8.

A commercial arbitration award rendered in a foreign country may as a rule be enforced in the United States if the award is one that is valid in the foreign country. The prevailing practice as between England and the United States is described as follows:

> A practice has been established between this country and America—and many other civilised countries—that an English or any other foreign judgment shall—of itself—constitute a course of action, which can be sued upon, and judgment obtained on it in the American courts. When this has been done, the effect is practically to convert the English judgment into an American judgment obtained in the same court. Most of the states of the United States have enacted statutes which permit an action to enforce a foreign judgment. It is true that this necessitates the taking of fresh steps in America; but, on the other hand, these steps are comparatively simple and straightforward, and occasion moderate expense or difficulty. . . .[19]

Arbitration clauses, however, are not valid in all foreign countries and enforcement statutes similar to those referred to have not been enacted everywhere. "In most Latin-American countries an award rendered upon an arbitration held after certain burdensome legal requirements are complied with, will be enforceable," but commerce in most of those countries "is hampered by the fact that the arbitration clause in a contract is itself never valid, enforceable nor irrevocable."[20] The Inter-American High Commission summarizes the general situation in Latin American countries as follows:

> As a general rule Latin American legislation recognizes the validity of the arbitration clause as a contract itself. Nevertheless, it does not

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[18] Mittelstein, "Law and Practice of Arbitral Tribunals in Germany," *ibid.*, p. 51.

[19] "Commercial Arbitration, the Facilities Recently Provided by the Establishment of a Tribunal of Arbitration, etc.," p. 9, American Chamber of Commerce in London.

[20] American Arbitration Association, Information Bulletin No. 6, December, 1927, p. 6.

establish measures by which it can be enforced promptly without a lawsuit, when one of the parties refuses to appoint an arbitrator. Only Bolivia, Costa Rica, Nicaragua, Panama, Peru, and Uruguay expressly recognize not only its validity but also dictate measures in order to make it effective.[21]

Several Pan-American Commercial Conferences have indorsed commercial arbitration and the Inter-American High Commission in 1928 specifically recommended the enactment of laws providing for the validity and irrevocability of arbitration clauses and the execution of awards in the same manner as judgments. Meanwhile progress has been made by a number of Latin American Chambers of Commerce acting individually or in conjunction with the Chamber of Commerce of the United States. Commercial arbitration can be fostered by means of legislation, but much can be accomplished by business firms and commercial organizations on the basis of mutual confidence and moral suasion.

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CHAPTER XXXVI

EXPORT AND IMPORT PRICE QUOTATIONS

Several important aspects of merchandise prices and price levels have necessarily been discussed in connection with other phases of the export and import trade. The general relationship between foreign price levels, trade balances, and international gold movements was referred to in Chapter II; export price discrimination was discussed in Chapter V; the relationship between prices and foreign exchange rates, in Chapter XXX; and price and quality considerations as market survey factors, in Chapter XXXII. The purpose at this point is to define the several types of price quotations made in the foreign trade.

Many of the technical terms used in export and import commerce are different from those prevailing in domestic commerce, and lack of uniformity still prevails to such a degree that confusion and misunderstanding frequently result in unfortunate trade disputes. Some export and import price quotations cannot be defined uniformly even though American foreign trade organizations, the International Chamber of Commerce and the International Law Association have endeavored to standardize or clarify them.

Foreign trade price quotations and terms may conveniently be subdivided into two general groups: (1) those which in general indicate the place of delivery, or more specifically, those defining (*a*) the transportation and related charges and cost items included in the price, (*b*) the respective duties of seller and buyer, and (*c*) their respective liability in case of loss or damage; (2) price quotations that variously define (*a*) the use of quoted prices as net prices or as list prices subject to discounts, (*b*) the currency in terms of which prices are quoted, and (*c*) the general basis of quantity, quality, time, or other agreed factors with respect to which the price quotations are determined.

PRICE QUOTATIONS IN TERMS OF PLACE OF DELIVERY

In December, 1919, a group of influential American foreign trade organizations[1] recommended to manufacturers and exporters that the "use of abbreviated forms of export price quotations be abandoned, and that such terms be written out in full," but, recognizing that this practice would probably not be accepted generally they recommended the use of certain standardized abbreviated terms and definitions in the hope that they would be so generally adopted as greatly to reduce the danger of confusion and controversy. These terms and definitions, which will be referred to as standard even though they have not been universally accepted, are in accord with the most common American export practice. Price quotations, however, may still be interpreted variously by American manufacturers and exporters, and further confusion results from interpretations placed upon them by foreign importers and by requests on the part of foreign importers that export prices be quoted in abbreviated terminology not used in the United States. In the import trade, except on the part of experienced importers, the likelihood of confusion resulting from the use of foreign interpretations is particularly great because import prices are quoted by foreign manufacturers and exporters. Foreign practice and, in some instances, foreign statutes, complicate the general problem.

In the foreign trade a wide range of "f.o.b." (free on board) prices are quoted. Some of them require loading of the exported or imported wares on railroad cars or lighters at the inland shipping point; others imply delivery in cars or at railroad freight houses on the seaboard, and still others require delivery on board ocean vessels at the seaboard. One of the abbreviations recommended by the American foreign trade organizations referred to above is "f.o.b. (named point)," that is, "f.o.b. Chicago" or "f.o.b. Detroit." In practice, however, an American manufacturer or exporter will substitute other terms such as "f.o.b. factory," "f.o.b. cars," "f.o.b. mill," or "f.o.b. works." In foreign countries the term used to designate an "f.o.b. (named point)" price frequently is "f.o.r. named departure point" (free on rail), "f.o.t. named departure point" (free on truck), or "Franco Sur Wagon named departure point" (free on car). An "f.o.b. (named point)" quotation, as defined by the nine interested American foreign trade organizations, requires the seller to "place the goods on or in cars or lighters at the inland shipping point, secure a railroad bill of lading, and assume responsibility for loss and/or damage until goods have been placed in or on cars or lighters at forwarding point, and clean bill of lading has been furnished by the railroad company." The buyer is required to "handle all subsequent movement of the goods," "pay all transportation charges and taxes, if any," and "be responsible for loss and/or damage incurred thereafter." Foreign practice in these respects is in accord in many countries, but where it varies confusion is apt to result unless the exporter and importer arrive at an understanding in advance. Dutch practice, for example, requires the buyer to secure the freight car, and in Finland the seller orders the car for the buyer's account.[2] Additional implications such as the period for making claims with reference to quality or quantity, right of the seller to recover the goods in case of bankruptcy or suspension of payment on the part of the buyer, etc., are not included in the standard American definition "f.o.b. (named point)" prices. They should, wherever possible, be clarified by agreement between the parties concerned. Some of them are questions of law and are complicated by variations in American and foreign commercial law.

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[1] National Foreign Trade Council, Chamber of Commerce of United States of America, National Association of Manufacturers, American Manufacturers' Export Association, Philadelphia Commercial Museum, American Exporters' and Importers' Association, Chamber of Commerce of the State of New York, New York Produce Exchange, and New York Merchants Association.

The standard American foreign trade definitions provide for several other types of "f.o.b." prices that require the seller to place the exported wares on cars, at the inland shipping point. An "f.o.b. (named point) freight prepaid to (named point on the seaboard)" price differs from the customary "f.o.b. (named point)" price in that it requires the seller to pay freight to the seaboard without relieving the buyer from the necessity of paying demurrage or storage charges, unloading the shipment from the cars at the seaboard, transferring it to the ocean vessel, or arranging for storage.[3] An "f.o.b. (named point) freight allowed to (named point on the seaboard)" quotation differs from this in that it includes all transportation charges from the inland point to the seaboard, the buyer after paying them, being entitled to deduct them from the amount of the invoice.

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[2] *See Trade Terms*, International Chamber of Commerce (1929).

F.o.b. prices carrying the exported or imported wares to the port of export and placing them on board the ocean vessel are quoted more generally than any of those requiring the seller to load them on railroad cars at the inland shipping point. The term recommended in the standard American foreign trade definitions is "f.o.b. vessel (named port)," such as "f.o.b. vessel New York," in case of an export price quotation, or "f.o.b. vessel London," in case of an import price quotation. Sometimes, however, an American exporter or manufacturer will omit the word "vessel" and confusion may then arise as to whether the "f.o.b. (named port)" quotation implies delivery on board the vessel or at a seaboard railroad terminal. In foreign countries the term "f.o.b. (named port)" usually refers to an "f.o.b. vessel (named port)" price quotation. An "f.o.b. vessel New York" quotation and an "f.o.b. London" quotation hold the American and British exporter, respectively, responsible for the delivery of the shipment on board the overseas vessel.

An "f.o.b. vessel (named port)" quotation as defined in the standard foreign trade definitions requires the seller to "(1) meet all charges incurred in placing goods actually on board the vessel, (2) provide the dock or ship's receipt, and (3) be responsible for all loss and/or damage until goods have been placed on board the vessel." It requires the buyer to "(1) be responsible for loss and/or damage thereafter, and (2) handle all subsequent movement of the goods." But this interpretation is not universally accepted.[4] The treatment of harbor dues and other ship's dues, clearance dues, and consular fees varies. Harbor and ship's dues under American interpretation are customarily paid by the buyer, unless port custom is to the contrary, while under British practice the seller is responsible for them. A British f.o.b. vessel price also requires the seller to pay cargo clearance expenses and consular fees, while in the

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[3] *American Foreign Trade Definitions,* National Foreign Trade Council, p. 5.

[4] *See* International Chamber of Commerce, "Trade Terms" (1929).

United States the usual interpretation is that export declaration expenses are borne by the seller and included in the price, while foreign consular fees must be paid by the buyer. Differences also arise as to the reservation of vessel space or the chartering of a vessel. In the United States and in many foreign countries this is the function of the buyer in case of an "f.o.b. vessel" quotation, but in Great Britain it is usually considered to be the duty of the seller, and under certain conditions there are also variations in other foreign countries. It should also be noted that although the standard American foreign trade definitions require the exporter to deliver a dock receipt, foreign practice in many instances assumes the delivery of an ocean bill of lading.

In the United States "f.o.b. vessel (named port)" quotations are sharply distinguished from several other f.o.b. prices, requiring delivery at the seaboard. An "f.o.b. cars (named point on seaboard)" quotation requires delivery at the seaboard, in railroad cars instead of on board the vessel, the seller paying freight charges to the port and assuming responsibility for loss or damage until the cars arrive at the port. Under the standard definition, the buyer is responsible for subsequent loss or damage and must unload the cars and "handle all subsequent movement of the goods, transport the goods to the vessel, pay all demurrage and/or storage charges, and arrange for storage in warehouse or on wharf where necessary." A corresponding f.o.b. price for less than carload shipments is termed "f.o.b. (named port) L.C.L.," delivery being made at the port in a railroad freight house or other customary delivery point at which the buyer is required to accept the shipment from the railroad company. An f.o.b. price requiring delivery at the port in freight cars but including lighterage costs at the port is termed an "f.o.b. cars (named port) lighterage free" quotation. It should be noted that this quotation does not relieve the buyer from responsibility for loss or damage after the arrival of the cars at the port.

An "f.o.b. vessel (named port)" price quotation is also to be distinguished from an "f.a.s. vessel (named port)" quotation. Sometimes the abbreviated term "f.a.s. (named port)" is used by American firms and this or a comparable foreign expression such as the French term "*Franco le long du navire*" is the practice in foreign countries. It is implied that the exported wares are to be delivered free alongside the vessel. Under standard American definition the seller must "(1) transport goods to seaboard, (2) store goods in warehouse or on wharf if necessary, unless buyer's obligation includes provision of shipping facilities, (3) place goods alongside vessel either on lighter or on the wharf, (4) provide the usual dock or ship's receipt, and (5) be responsible for loss and/or damage until goods have been delivered alongside the ship or on wharf." The buyer in turn must "(1) be responsible for loss and/or damage thereafter, and for insurance, (2) handle all subsequent movement of the goods, and (3) pay cost of hoisting goods into vessel where weight of goods is too great for ship's tackle."

Although "f.o.b. vessel (named port)" price quotations are very important in the foreign trade, either the importer or the exporter may prefer a price that also includes marine insurance costs and ocean freight charges to the foreign port of delivery. American and foreign exporters, therefore, frequently quote "c.i.f. (named foreign port)" prices. Although a cost, insurance, freight (named port) quotation does not hold the seller responsible for delivery at the foreign destination and does not include all expenses incurred in making delivery at that point, it increases the seller's duties and responsibilities and requires him to include in the export price both marine insurance premiums and ocean freight. Abroad the abbreviation "c.a.f. (cost, assurance, freight)" is sometimes used to designate a "c.i.f. (named foreign port)" price quotation.

The standard foreign trade definition of a "c.i.f. (named foreign port)" quotation provides that the seller must "(1) make freight contract and pay freight charges sufficient to carry goods to agreed destination, (2) take out and pay for necessary marine insurance, (3) deliver to buyer or his agent clean bills of lading to the agreed destination, and insurance policy and/or negotiable insurance certificate, (4) be responsible for loss and/or damage until goods have been delivered alongside the ship and clean ocean bill of lading and insurance policy and/or negotiable insurance certificate have been delivered to the buyer, or his agent. (Seller is not responsible for the delivery of goods at destination nor for payment by the underwriters of insurance claims), and (5) provide war risk insurance, where necessary for buyer's account.'' The buyer must ''(1) be responsible for loss and/or damage thereafter, and must make all claims to which he may be entitled under the insurance directly on the underwriters, (2) take delivery and pay costs of discharge, lighterage, and landing at foreign port of destination in accordance with bill of lading clauses, and (3) pay foreign customs duties and wharfage charges, if any.''

The cost items here provided for can readily be analyzed in greater detail. A ''c.i.f. (named foreign port)'' price quoted by an export house on a typical shipment originating at an interior point in the United States must, if the export house is to obtain a profit, include the ''f.o.b. car (named inland point)'' price paid to the manufacturers, railroad freight to the port of export, lighterage, cartage, storage, and other transfer expenses at the port not absorbed by the carriers; marine insurance premiums; ocean freight to the foreign destination port; loading charges not included in the ocean freight rate; and an allowance for profit and overhead. The export house may also include collection expenses and interest for a sufficient period of time to allow for forwarding the bill of exchange to the foreign country, maturity of the bill of exchange and remittance of funds to the United States. The treatment of financial items such as these is not provided for in price quotation definitions. They may be included in the export price or accounted for when the draft is drawn. In the latter case the draft may be drawn for the invoice amount plus collection expenses, or for the invoice amount plus collection expenses and interest charges. They are governed by the agreement between the buyer and seller.[5] Many items of expense are not included in the c.i.f. price. Consular invoice, certificate of origin, or other fees required by foreign governments at the American port of export are not included nor is the cost of war risk insurance included. Costs arising at the foreign port of entry, such as unloading, lighterage, and landing charges not included in the ocean freight rate, wharfage charges, trucking or cartage charges, and import duties are not included in the c.i.f. price. Nor are inland freight charges included, because the c.i.f. price requires the foreign buyer to take delivery at the port of discharge.

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[5] *See* Chapters XXVI and XXXVII.

International practice, however, varies somewhat in the interpretation of c.i.f. prices. It is customary, for example, in many important foreign countries, to include consular invoice and certificate of origin fees, and the American importer finds that foreign export duties when assessed are sometimes included. Although the seller's responsibility for loss or damage, as defined in the standard American definitions, ceases when the wares are alongside the ship and a clean ocean bill of lading and a marine insurance policy or negotiable certificate has been delivered to the buyer or his agent, the seller's responsibility in many foreign countries continues until the wares are loaded on board the vessel. In some foreign countries the seller's responsibility rests on still different bases, and there is also considerable variance in their interpretation of what constitutes ''necessary and usual marine insurance.'' In order to bring about a greater degree of standardization, the International Law Association, at its 1928 conference in Warsaw, Poland, drew up a tentative draft of rules relating to c.i.f. contracts. These so-called ''Warsaw Rules, 1928,'' have been presented to chambers of commerce and interested trade bodies in the United States and foreign countries for their consideration.

American and foreign practice also provides for a ''cost and freight'' or ''c. & f. (named foreign port)'' price quotation which differs from the ''c.i.f. (named foreign port)'' quotation in the matter of marine insurance. Under the standard American foreign trade definitions, for example, the seller's release from responsibility for loss or damage does not depend upon delivery of a marine insurance policy or certificate. Nor is he required to take out the necessary insurance or pay the insurance premium.

Other types of export and import price quotations are used less frequently in the foreign trade of the United States and are not recognized in the ''American foreign trade definitions'' recommended at the conference of 1919. In certain trades, for example, when factors other than the expense items regularly included in f.o.b., f.a.s., c.i.f., or c. & f. quotations are included, price terminology is changed so as to indicate their inclusion in the price. A quotation reading c.i.f. & e., found principally in the trade with Australia, New Zealand, South Africa, and other British colonies where sterling is the currency, indicates that exchange is included in the price. C.i.f. & e. indicates that interest has also been added. But terms such as these are not interpreted uniformly.

So far as transportation, insurance, and related delivery expenses are concerned American exporters rarely go beyond the limits set in the "c.i.f. (named foreign port)" quotation. Foreign importers may however request quotations that go further, and in the import trade, foreign exporters may quote more inclusive prices. European foreign trade practice recognizes "free delivered (named destination point)" or "*franco rendu* (named destination point)"[6] price quotations, which in many countries require the seller to (1) "carry goods to named destination point at his own expense, (2) deliver goods or hold them at buyer's disposal at named destination point within time stipulated in contract, and (3) be responsible for all loss and/or damage until goods are delivered to the buyer."[7] When such a price is quoted, however, unloading charges are in some countries paid by the buyer and in others by the seller. Customs duties are also included in this quotation in some European countries, but in many instances they are for the account of the buyer. Addition of the qualification "duty paid," or corresponding foreign term, definitely includes import duties in the free delivered price, while the qualification "in bond" signifies that customs duties are not included. A quotation "ex dock (port of arrival)" or "f.a.q. (free at quay), (port of arrival)" definitely includes unloading charges at the foreign port of discharge, but the meaning of these terms varies as to the inclusion or exclusion of import duties.

A "free delivered (named destination point)" quotation may carry the shipment to its final destination point, but not necessarily to the importer's warehouse. When, however, terms such as "delivered in store" or "free go-down" are used the exporter clearly assumes all costs incident to the delivery of the wares at the importer's warehouse or place of business. Such a quotation places maximum responsibilities, duties, and costs with the exporter. It is in sharp contrast with a quotation "ex warehouse,'' which implies sale of the wares at the exporter's warehouse without including the cost of loading them on a freight car or delivering them at a railroad station.

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[6] The German term is "*franko bestimmungsort.*"

[7] *See Trade Terms*, International Chamber of Commerce (1929).

The price quotations most commonly made in the foreign trade of the United States are ''f.o.b. vessel (named port)'' and ''c.i.f. (named foreign port).'' Other quotations made quite frequently are ''f.a.s. vessel (named port),'' ''c. & f. (named foreign port),'' and, in the import trade, ''ex-dock (port of arrival).'' The nine American foreign trade organizations that have endeavored to standardize quotations in their ''American foreign trade definitions,'' recommend ''as a most effective measure of simplification, the general practice of quoting for export, as far as possible, either ''f.a.s. vessel,'' ''f.o.b. vessel'' or ''c.i.f. vessel.'' No one of these quotations can be held up as preferable under all conditions and few exporters can insist upon a particular quotation to the exclusion of others that may be requested by their customers.

As was noted above an ''f.o.b. vessel (named port)'' quotation limits the exporter's duties and costs in comparison with those assumed when he quotes ''c.i.f. (named foreign port).'' It is a simpler price to quote and he is released from the risk of unfavorable fluctuations of ocean freight rates and marine insurance premiums. Yet, he may prefer to quote c.i.f. as a means of promoting sales, or at least may be quite willing to quote c.i.f. when requested to do so by the foreign importer. Most exporters regularly engaged in foreign commerce find it no hardship to ascertain ocean freight and marine insurance rates, stowing costs, harbor dues, and other port charges assessed against cargoes at the port of export, or actually to make an ocean freight contract, pay ocean freight charges, take out marine insurance and deliver to the buyer or his agent a clean bill of lading to destination and an insurance policy or negotiable certificate. The exporter's responsibility for loss or damage under a c.i.f. quotation, it will be recalled, is not excessive, for it ends when the cargo is delivered alongside the ship and the clean bill of lading and insurance documents are delivered.[8]

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[8] When "American foreign trade definitions" are not accepted, responsibility may end with loading of goods on board the vessel, delivery of goods into custody of shipowner or as otherwise provided, and delivery of clean bill of lading and insurance documents.

Yet the "c.i.f. (named foreign port)" quotation may be a great convenience to a foreign importer who has made no definite shipping arrangements in the United States. He is apt to be familiar with unloading, lighterage, landing, and wharfage charges, import duties and other charges arising at the foreign port of discharge and not included in the c.i.f. quotation, and to have the necessary arrangements for taking delivery there; but he may prefer not to make shipping arrangements at the port of export, and he may be uncertain as to inbound ocean freight and marine insurance rates and port charges that may arise at the American port from which his shipment is forwarded. Under such conditions he may request a c.i.f. quotation because it releases him from the necessity of handling shipping details and enables him to gauge the cost of his imported wares more accurately than is possible in case of an "f.o.b. vessel" quotation. He may, on the contrary, be fully familiar with these c.i.f. cost terms and prefer to make his own shipping arrangements at the port of export, so as to safeguard against the possibility of paying a price in which the allowance for ocean freight, insurance, and port expenses is greater than the charges actually incurred, and greater than they might be in case he made his own shipping arrangements at the port from which his wares are to be shipped.

Which of these quotations will be used, in case the exporter is willing to quote either, is determined by varying factors such as the importer's shipping organization and his knowledge of the additional cost items included in the c.i.f. quotation, by the stability or lack of stability of ocean freight rates and marine insurance premiums, and by the extent to which particular trades are competitive. In some trades it is a matter of general custom, and is not so largely influenced by the wishes of particular importers or exporters. The quotation of an export price "f.a.s. vessel (named port)" instead of "f.o.b. vessel (named port)" is also influenced by custom in particular trades, but is often determined by the character of the commodity. When the commodity shipped is so heavy or bulky as to necessitate the employment of a derrick or other special loading equipment, the charges for which are not included in the ocean freight rate, the sales agreement may require the exporter to place it alongside the vessel instead of on board, the additional handling charge and responsibility being assumed by the importer.

NET AND LIST PRICES

Export and import prices may be quoted either as "net" or as "list" prices. The former indicates that a definite f.o.b., c.i.f., or other quotation not subject to trade or quantity discounts of any kind is made by the exporter, while a list price is a general price published in a catalogue, price list, or advertisement or otherwise given out by the exporter as the basis for computing the actual or net price to which particular importers, or classes of buyers, or buyers in particular markets are entitled. The difference is a matter of price policy of particular interest to exporters of finished manufactured products rather than to exporters of the great staple commodities of international commerce. List prices facilitate the publication of prices in catalogues or price lists because trade discounts and sometimes quantity discounts are used in connection with them. A catalogue or published price schedule containing list prices can be used for a longer period of time than one quoting net prices because the varying requirements of different buyers and markets, and the changes necessitated by changing conditions may be taken into account to some extent in the accompanying discounts. The exporter may authorize a single flat trade discount or a series of trade discounts such as 30 and 10 per cent. The list price provides a price basis giving a general idea as to the exporter's price level, the proper trade discounts being applied in case his policy is to sell at different prices to different types of buyers in a given market, such as foreign agents, wholesale importers, retailers, or consumers. List prices also facilitate the use of the same catalogue and price list in different markets, the trade discounts being applied so as to take into account net price variations. If conditions should change so as to necessitate a readjustment of prices, it may be possible to make the adjustment by means of the trade discounts without republishing catalogues or printed price lists. Should the exporter adopt a policy of varying prices with a view to attracting large orders his list prices will also be subject either to a single quantity discount or to a series of quantity discounts varying with the size of the order.

When the exporter of a manufactured product is requested specifically to quote a definite price it will be a net price but he may also publish net prices in catalogues or price lists. The latter may be comparatively short-lived during periods when exchange fluctuations or other conditions compel price readjustments, and the number of markets in which the same catalogue and price list is used may be smaller. Net price quotations, however, have the advantage of simplicity and accuracy, and they are more flexible than a series of trade discounts when small price changes occur. The use of the same catalogue and list prices in different markets, moreover, is complicated when list prices are quoted c.i.f. In this case it is necessary either to publish a separate c.i.f. list price for each port, or a schedule of ocean freight rates and marine insurance premiums for use in connection with the exporter's trade discounts and f.o.b. vessel list prices. The greater simplicity and accuracy of net prices are particularly in evidence when c.i.f. quotations are made.

UNITED STATES DOLLAR AND FOREIGN CURRENCY QUOTATIONS

Export and import price quotations may be made in terms of the currency of the exporting country or that of the importing country or of a third country. Price quotations in United States dollars are more prevalent since the European War period than formerly because the dollar is now well known and is a relatively stable currency in comparison with the currencies of many foreign countries, and because American international banking facilities have been improved and the direct exchange of commercial bills between the United States and many sections of the world has become prevalent. The former custom of quoting in pounds sterling, francs, or marks rather than in dollars or native currency of the foreign importing or exporting country, moreover, was necessarily weakened during the War period.

Price quotations in terms of the currency of the exporting country are advantageous to the exporter because they reduce his foreign exchange risks, facilitate the prompt determination of his profits, and, if his own currency is stable, reduce the necessity of frequent price changes. His exchange risks when quoting in foreign currency may in many instances be minimized by hedging in the foreign exchange market or taking the other precautions discussed in Chapter XXX, but hedging may be impossible because of the absence of an open exchange market and other precautions may be unreliable or difficult of execution.

The importer may favor price quotations in the currency of the exporting country if he foresees an additional speculative profit due to an expected rise in exchange before settlement or because he believes that the assumption of exchange risks by him will affect the price quotation favorably, but he frequently prefers purchasing at prices quoted in his own native currency and the exporter, in order to promote sales, may grant his request. Quotations in the currency of the importing country shift the risk of exchange fluctuations to the exporter. They enable the importer to compute his profits and announce his resale prices promptly, and also more readily to compare price quotations received from the competitive exporters of different foreign countries. Custom, moreover, may largely determine the prevailing practice in particular trades, and the danger of nonpayment of bills due to unfortunate exchange speculation by importers may at times cause the exporter to favor foreign currency price quotations.

The practice of quoting prices in the currency of a third country is at times dictated by custom originally based upon sound reasons, and in some instances these reasons may be operative at the present time. When the currencies of both the exporting and importing country are unstable, or when the banking facilities of a third country are depended upon for financial settlement, it may be desirable to quote prices in the currency of a third country.

QUANTITY, QUALITY AND TIME BASES OF PRICE QUOTATIONS

An export or import price quotation may be based either on a specified unit or on the shipment as a whole. Unit prices are the more prevalent, and it is essential that the unit of quality be definite. When a price per automobile, tractor, grain binder, or other machine or appliance is quoted the product itself constitutes a definite unit; but when prices of commodities are quoted in terms of a ton or hundredweight, a barrel or drum or case, a bushel or quarter of grain, a bale of cotton or wool, etc., definition or understanding is essential because quantity units of this character are subject to different interpretations. When prices are on a weight basis, moreover, there should be an understanding as to whether the basis weight is the gross weight of the commodity plus packing, or its net weight; whether the weight at shipping point, delivery point or other agreed point should govern; and whether or not an agreed tare allowance and weight tolerance shall be applicable.[9]

The quality of the exported or imported wares may also be variously specified in a price quotation. The price quotation may definitely indicate particular grades, standards, degrees of polarization, types, percentages of mineral content, numbers, or other understood trade designations, or it may indicate known brands or makes. As sales are, however, frequently based upon direct specifications, catalogue descriptions, previous sales, etc., and as methods of checking quality are not indicated in the price quotation, the entire subject of quality designation and determination is left for more detailed discussion in connection with the export and import contract.[10]

Price quotations vary also as to the precision with which they fix the price that is to be paid at the time of settlement. Definite or fixed prices are, of course, the most prevalent in foreign as well as in domestic commerce, but the sales contract may provide that the settlement basis shall be the price current in an agreed market for a specified grade or other quality designation at the time of delivery; or that the settlement price of cotton shall be based upon the prevailing price of future contracts on an agreed speculative cotton exchange at the time the cotton buyer exercises his "spinner's option"; or that average prices in a particular market at an agreed time shall govern; or that the basis for settlement shall be the cost of production plus a fixed percentage or "cost plus."[11] Further confusion may arise when the price is based upon a basic grade or grades with permission to deliver other grades subject to agreed price adjustments, as in case of speculative grain, cotton, coffee, or sugar future contracts.

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[9] *See* Chapter XXXVII.
[10] *Ibid.*
[11] *See* G. B. Roorbach, *Import Purchasing*, p. 114.

One further distinction of importance has to do with the cash or credit terms on which price quotations are based. Cash prices pre-suppose settlement before shipment, at the time of delivery, or shortly thereafter. If a period of credit is granted on the basis of a cash price, the importer will usually be required to pay the interest at the time of settlement. The extension of credit, however, is so prevalent in foreign commerce that many export and import prices are quoted on the basis of a stated number of days in the future, and cash discounts may be granted in case settlement is made at an earlier date. When extended into the future, allowance must be made for interest and perhaps also for the increased risk assumed by the exporter. A quotation at ''60 days net, 2 per cent discount for cash,'' for example, indicates that the price is based upon a credit period of 60 days without cash discount at the end of that time, but that settlement on a cash basis will entitle the importer to a cash discount of 2 per cent. A quotation such as ''2 per cent—10 days, 60 days net,'' definitely limits the cash discount to a period of ten days. Sometimes a series of cash discounts is stated in connection with a credit price for the purpose of encouraging prompt payment. It is an important function of the exporter to decide whether his prices will be quoted on the cash or the credit basis, and to decide upon a policy with respect to interest charges or cash discounts.[12]

COLLATERAL READINGS

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[12] For discussion of methods of financing, methods of extending credits, and contract terms *see* Chapters XXVI, XXVII, and XXXVII.

CHAPTER XXXVII

SALES AND PURCHASE CONTRACTS IN FOREIGN TRADE

When using the expressions "order" or "contract" it may have been presumed that a formal document, in some way "signed, sealed, and delivered," is intended. In some instances this is the case, but, quite generally, orders in international commerce are informal. When buyers submit orders direct to the foreign suppliers they are generally transmitted in letters or on forms used by the buyer, for such purposes. If American middlemen are parties to the transaction, orders may be similarly placed, or the middleman may employ an order blank that shows the firm's name, date, and terms. Further details are then inscribed according to the conditions encountered in the country of sale, the characteristics of the particular commodity that is ordered and the standing of the buyer. Direct traders who deal through agents or branches likewise depend more upon simple order forms, since in the case of agents, conditions governing transactions are generally set forth in the agency contracts; and when branches are employed, the sale, so far as the customer is concerned, is usually a domestic transaction.

However, in some technical lines and in connection with large purchases and construction enterprises, it is generally found advisable to use formal contracts. Contracts in the iron and steel, bulk oil, electrical goods, transportation equipment, and other trades are examples of this type of contract.[1]

Standard forms of contract are oftentimes found in trades that are well organized into associations or exchanges. These are usually raw materials of one kind or another. Organizations of buyers have sometimes drafted contracts indicating the terms on which they are united in dealing with the sellers. For example, the American Spice Trade Association has adopted several forms of standard contracts governing the importation of spices and Chinese textile importers have devised a standard contract.

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[1] *See* Appendix IV.

It is interesting to observe the opinions of various foreign traders as to the advisability of employing formal contracts. It is not as a rule found desirable to adopt a standard contract form for use in all foreign markets. A form that would be satisfactory for the Latin American market might be worthless for the Far East, and neither of these might fit into the conditions of European trade. Moreover, when a relatively wide range of commodities is dealt in the use of any standard order form is practically eliminated.

An exporter of weighing equipment declares that in conformity with his policy of mutual trust and confidence, he does not restrict the freedom of his dealers ''through an employment of complicated documents, order forms, etc., of legal phraseology.'' Another concern feels that the ''if's or and's or clever phrases'' usually found in standard sales contracts are likely to increase sales resistance. Still another manufacturer of tools voices the impracticability of employing a standard form of contract, his experience having demonstrated that when trouble occurs, it is difficult ''to obtain any action notwithstanding the fact that we are amply covered by a signed contract.'' In the case of some exporters, the regular domestic order form is adopted for foreign trade.

Irrespective of the particular form employed, it is quite obvious that in some way a mutual understanding of conditions governing a transaction must be reached. The advantage of the formal contract, in this connection, is that every contingency may be set forth and agreement thereon procured and that without such an understanding controversy is more likely to arise.

It should be remembered, however, that clarification of sales terms and conditions is accomplished to some extent, at least, in ways other than here contemplated. Catalogues, letters and sales literature will frequently contain information by which the buyer becomes aware of the seller's conditions. Moreover, agency contracts, as stated before, constitute in large measure the fundamental agreement underlying sales made through an agent.[2] Then, too, an enormous volume of foreign, as well as domestic, trade is carried on between buyers and sellers of many years' standing, leading to a confidence and an experience that forms a basis of understanding of the conditions governing business transactions. Innumerable customs are found in commodity trades and in different areas of the world of which courts of law would require traders to be cognizant and thereby bound, even though they are not specifically agreed upon. Such customs are so commonly practiced that any one engaging in trade is presumed to have recognized their commercial usage. In a sense, this is common law as related to commercial matters.

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[2] *See* Chapter XV.

ESSENTIAL CONDITIONS OF PURCHASE AND SALES CONTRACTS

The essential conditions that should be set forth expressly or otherwise understood in foreign trade orders or contracts embrace the following.

Quality of Merchandise Ordered.—Unless there is some method of accurately describing or in some other way indicating the exact quality of merchandise ordered, misunderstanding is bound to arise. The most common method of indicating quality is by the use of samples. Thus, a small piece of textiles, a small quantity of grain (rice), a small bottle of a liquid (oils), or an entire article, as a specialty or a tool. After having been established, the quality of a manufactured article may be recognized by the trade-mark or trade name under which it was originally purchased. In this sense, the first article, indicated by the symbol, constitutes the sample for further sales. Commodities that are capable of being standardized may be bought and sold on the basis of commercially recognized grades. Standard grades are often established under the authority of exchanges, bourses, and other commercial bodies. Examples of such commodities are coffee, sugar, rubber, cotton, and silk. Occasionally, governments by legislative act have fixed the standards according to which a commodity may be handled. In the United States, grain is regulated in this manner.

There is a growing tendency to standardize grading in other raw materials where the necessary coöperation has hitherto been lacking. It should be noted, however, that private agreements may be made on any basis by individual traders, regardless of established grades. The purpose of standardization is to provide the facility for dealing in this manner, but not to force adherence.

Ordinarily, the merchandise shipped must agree with the sample previously submitted or agreed upon. In some lines, however, as in furs, the samples are intended to indicate the general run of a shipment, for no guarantee can be safely given that exact duplication of samples will be made. Average quality is the intention conveyed by samples in many lines.

Whenever a buyer submits a sample of the goods that he desires, it is customary for the seller to submit in return a sample of his own product nearest to the goods ordered. In this way, the seller may avoid rejection of the merchandise, based upon the failure of the shipment to agree in any particular with the buyer's sample. The same plan is advisable also where the buyer, in the absence of any recognized commercial grade, has ordered by description. In some technical and construction lines, plans and drawings may be made to convey the exact description of the buyer's wishes. For agricultural commodities that are not standardized and which vary in quality from season to season, a general quality designation such as "fair average quality of the season" is sometimes used. The expression "fair merchantable quality" is also at times employed.

Numerous additional ways of indicating the quality of merchandise ordered are recognized in various trades as standard designations of the peculiar elements of an article whereby it may be accurately identified.

Quantity.—The quantity of merchandise ordered is expressed in such terms as are currently employed in the particular trade. In foreign trade, however, terms that are uniformly understood throughout the United States may be subject to different interpretations. A ton of merchandise, for example, may be a long ton of 2,240 pounds, a short ton of 2,000 pounds or a metric ton of 2,204.62 pounds. The hundred-weight is 112 pounds in British countries and the gallon likewise varies. In such instances, it is necessary to provide for mutual understanding; or the usage in the particular trade would govern. Familiar examples of quantity designations are pound, kilo, gallon, barrel, case, bale, drum, ton, unit (one or any wanted number), dozen, and gross.

In case of articles of relatively high value the quantity ordered is intended to be exactly filled but in the case of bulky and cheaper commodities, variations from the stated weight are permitted. The extent of variation that is permitted without giving rise to a claim under the contract or order is known as "tolerance." This may be understood in a particular trade or it may be set forth in the contract. The designation might read —"about 300 tons"; "not less than 300 tons"; "20 tons, 5 per cent more or less"; "seller to guarantee shrinkage of 1 per cent; or excess of 1 per cent to be credited to buyer." Such provisions are also employed to determine the quantities of articles that are subject to weight variations due to absorption or shrinkage, the extent of the variation permitted being determined by the average shrinkage (or increase) in weight that is to be anticipated on the basis of experience.

Quality and quantity are two items upon which clear and mutual understanding may be reached; nevertheless, as shipped or received, considerable variation may occur. It becomes extremely important, therefore, in international trade to agree to an authoritative determination of contractual fulfillment of these important subjects. In world commerce this is accentuated by reason of the time elapsing from the date of shipment from a factory, plantation, or warehouse, until the arrival of the goods in the buyer's city. It is the practice of some foreign traders to adopt standard clauses setting forth their responsibility in export sales. These may appear in contracts, order forms, or even on company stationery. One export and import house declares that "our responsibility ceases when merchandise leaves the warehouse, receipted for in good order." A manufacturer of heating equipment states that responsibility ceases upon delivery of goods in good order to transportation companies. An exporter of food products guarantees merchandise to be in "merchantable condition when put into the steamer. Beyond that we assume no responsibility."

Responsibility cannot, however, always be disposed of so easily. Sales are usually made on varying bases to different customers and responsibility therefore varies. In determining the collateral obligations of buyers and sellers, perhaps nothing is so useful and interpretive as the price quotation.[3] This conveys the principles of financial and legal segregation of responsibility as between buyer and seller. If all sales were made on the same price quotation, standard clauses relating to liability might well be effective. An exporter of hardware, for example, employs the following clause:

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[3] *See* Chapter XXXVI.

"All goods sold on basis of delivery f.a.s. New York, and our responsibility ceases when shipment is delivered to Transportation Company and clean delivery receipt received."

A further difficulty arises, however, from the fact that price quotations (and their interpretation) are not, as yet, standardized in world trade. Therefore, unless a price quotation is defined or otherwise clearly understood between the parties, it will prove a false guide to determining the time and place for quality and quantity establishment.

Sometimes clauses are inserted in contracts to describe the time and method of checking quantity and quality. In contracts for bulk oil sales, for example, it might be stipulated that upon completion of loading into tankers, the buyer's representative is to sign a certificate jointly with the seller's representative, setting forth their joint determination of the quality and the quantity of the oil shipped. This is conclusive determination on both points. In electrical and many machinery lines, it may be provided that unless the buyer requests "the privilege of inspection or special test before shipment it will be understood that the usual inspection and tests at the factory will determine whether the goods meet the requirements of the contract." Official inspectors are employed at many ports and upon application they will inspect merchandise and issue a certificate setting forth their findings as to quantity, quality, and condition of the shipment. When mutually agreed upon, such inspection is accepted as authoritative. Changes in the condition of the merchandise occasioned by the ocean voyage would then be for the account of the buyer, unless other provisions are made.

Quantity is more readily determined than quality and additional methods of verification are found. Oftentimes this is performed at the port of exportation, where, according to the usual price quotations, the exporter's responsibility ceases and that of the importer begins. The risks of ocean transportation are then for the account of the buyer. Quantity may be attested at this point by the shipping company in the bill of lading; or by certificates issued by weighers or inspectors; or by warehouse receipts. In some British trades a document known as a *warrant* is employed as evidencing title to goods already deposited on a dock or in a warehouse. It is issued by the owner in favor of any party to whom the owner desires the goods to be transferred or delivered. It is acceptable for hypothecation by British banks when the goods in question are considered to be suitable security. These methods of determination will not always satisfy, however, when the quantity depends upon the contents of sealed packages. The shipping or handling company receipts for the number and weight of packages delivered to it but it does not know the contents, either as to identity or net weight. Any discrepancies which the buyer discovers upon opening the containers will provide the basis for a claim which, as stated later, may be regulated by specific agreement.

Price, Terms, Insurance, and Interest.—Price forms an integral part of any sales or purchase contract and the various methods of quoting prices have already been discussed.[4] Terms of sale are likewise essential in purchase or sales agreements and they may be sight, draft, letter of credit, open account, etc., as discussed in Chapter XXVI. Where insurance is included in the price, as it is under c.i.f. quotations, the exact nature of the protection desired should be understood.[5] Sometimes this is standardized in a particular trade; otherwise the buyer should designate the coverage, since it is ultimately for him and he pays the bill.

As delayed payment is a contingency that cannot be foreseen, it is advisable to agree, in sales and purchase contracts, upon the question of interest. In computing the price, interest has been included only up to the point at which, according to the terms, payment is to be anticipated and there would be a loss in interest in case of delay. An understanding should be reached regarding the rate of interest and the time at which it is to commence. This cannot be left to chance, since in many foreign countries the law does not recognize the practice of the automatic accrual of interest in case of nonpayment upon due date.

Packing and Shipping.—It is an acknowledged responsibility of the seller of merchandise to pack the goods in such manner as to insure reasonable protection against breakage, leakage, etc., until the shipment is delivered.[6] Packing costs are ordinarily included in the price but if some special method of packing, such as zinc or tin-lined cases, is desired, this fact is set forth in the agreement of sale and the additional costs are for the account of the buyer. Sometimes an allowance is made for the return of containers, but this is unusual in international trade.

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[4] *See* Chapter XXXVI.

[5] *See* Chapter XLIII.

Style and make-up, as an integral part of packing, are especially important in international trade. In export sales, tastes and customs of foreign markets may demand a different style from that adopted in the United States and when the buyer stipulates the mode of interior packing or the assortment that he desires, the exporter is obliged to observe these instructions. The adequacy of packing is ordinarily determined, as is true also of quality and quantity, at the port of exportation.

The time of shipment is often an important provision in a purchase or sales contract and it is usually stipulated by the buyer, since he knows when he will need the goods. Late shipments, unless due to an accepted cause, or agreed to, will support a claim on the part of the buyer. There are various ways in which the time of shipment may be designated. Thus, a contract may call for prompt or soonest shipment; or set a date by which shipment must be made. A form of credit and custody contract is found in cases where the seller agrees to have the merchandise ready for shipment at a definite date and the buyer to call for delivery or deliveries as agreed.[7] In to-arrive contracts, performance does not occur until the arrival of the vessel and for this purpose, the seller agrees to make shipment on a certain date or during a specific period of time; or the merchandise may be afloat when the contract is made. Subsequent shipping delays do not affect the contract.

Unless the buyer specifies the routing for a shipment, it is the duty of the exporter to designate the route when he ships the merchandise.[8] Although the usual route is generally adopted, the desires of the buyer with respect to route, steamship line and steamer are often respected, in case they are transmitted before the seller has made other arrangements.

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[6] *See* Chapter XXXIX.

[7] Or the time of shipment may be upon call of the buyer, without any responsibility on the part of the seller to have the merchandise ready. A time limit is usually set in such instances.

[8] *See* Chapter XLI.

Partial shipments may also be covered in the agreement, especially when large quantities are ordered. The gist of such a provision is indicated in the following:

"The seller may ship any portion of the goods as soon as completed at the manufacturer's works and payment for any portion of the goods as shipped shall become due in accordance with the terms of payment."

Exemptions from Responsibility.—A common clause in international sales agreements relates to the circumstances acknowledged as exempting the seller from liability under the contract. One particularly elaborate phrase states that no loss or damage will accrue to the seller in case of "strikes, lockouts, accidents, fires, earthquakes, windstorms, delays in manufacture, car shortages, freight embargoes, delays in transportation or delivery of materials, acts of God and the public enemy or the Government of the United States or any branch or department thereof, or from any other cause of whatever kind or character beyond the control of the seller." A less formal statement might read "the seller assumes no responsibility for delays, losses, or damage beyond its own control."

There is criticism of the use of general expressions regarding exemption from liability, *viz.*:[9]

> This clause should be specifically drawn with expert care in order to counteract the very narrow judicial interpretation which the [foreign] courts give to the contingencies clause, as commonly drawn. The courts apply the ejusdem generis rule. In other words, where the contract uses the usual phraseology, and states that the shipper is not to be liable in the event of "wars, strikes, fires, delays in transportation and other causes beyond his control," the courts take the position that the phrase "other contingencies beyond his control" qualifies the specific contingencies named and covers only contingencies similar to those enumerated. [Moreover, such a general clause] will protect the shipper only where he has been totally prevented from performance by one of the contingencies named. If he has been materially hindered but not totally prevented from performance, the courts usually hold that the contingencies clause does not relieve him.

It is not surprising that contracts in international trade rarely make similar provision for releasing the buyer from the obligation of acceptance and payment. This is commonly the position of the buyer in all commercial relations.

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[9] L. O. Bergh, "Sales Contracts in Foreign Trade," *Export Trade and Finance*, Oct. 27, 1928, pp. 18, 40.

Claims and Disputes.—Although title and consequently liability often passes to the buyer at the port of exportation, there are various considerations under which the buyer may support a claim. These refer to matters that have subsequently arisen or that could only be later discovered, as concealed shortage or damage, errors in quality, style or make-up and in assortment. Ordinarily, the seller allows a definite time within which claims may be presented. This may be upon receipt of goods, or ten days, or sixty days thereafter. In the absence of specific agreement, the laws of most countries set the time limit for entering claim.

Provision is often made for the settlement of disputes that may arise. In the case of export sales it may be provided that legal action is to be conducted under the laws of some particular state in the United States. This is often the state in which the exporter is domiciled, or it may be New York. Frequently, however, arbitration is agreed to in international sales.[10] The rules of a specific business organization or of a chamber of commerce may be adopted in the agreement as the basis of arbitration; or the testimony of sworn appraisers, weighers and other competent witnesses may be accepted.

INDENTS

The term indent is accepted in some quarters as synonymous with order, but this is not strictly the case. Indent business is confined principally to the Far East, Africa, Australia, and New Zealand. In some sections it has become well standardized according to forms and practice. As a type of business, however, it is more generally prevalent than these geographical limitations might indicate. In British trade, the term indent is often used interchangeably with the term order, but in American trade and in its real meaning, it is a precontract arrangement. It is essentially an offer by a foreign importer to purchase certain clearly described goods at the prices stated. Not until the indentee agrees to provide the goods specified at the price named does the indent become a binding order. In practice, the indentor (importer) is bound by his offer until he is released by the refusal of the offer by the exporter.

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[10] *See* Chapter XXXV.

Certain characteristics of this business become evident. Indents are generally sent by foreign business houses to export and import merchants located in industrial countries. These merchants do not usually specialize in a few commodities only; they are ready to procure any merchandise that their clients request them to obtain. From this it may be seen that manufacturers rarely, if ever, receive indents.

A native wholesaler in, let us say, India, may observe the possibility of profitably selling so many dozen locks of a certain design. Knowing the price limitations of his market, he figures the price he could afford to pay for the locks and still make a profit. Estimating also the demand, he sends an indent, or offer to a "commission house" in an industrial country, the offer being to purchase so many dozen of such and such locks at a certain price per dozen. Many of the clauses that appear in export and import contracts are likewise found in indent forms.

The exporter to whom the indent is sent at once shops around to see if he can accept the offer and still make a profit for himself. If satisfied, he usually cables an acceptance, whereupon the indent automatically becomes an order.

This type of business is to be found mainly in countries where foreign middlemen are still predominant in the export and import trade. As this middleman control passes away, the indent business may be expected to dwindle but the term will probably continue in its broader sense.

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CHAPTER XXXVIII

TARIFF LAWS AND GOVERNMENT RESTRICTIONS

American importers are well aware of the problems faced in meeting the numerous requirements imposed by customs laws as well as of the controversies arising over classification, tariff rates and value. It is, however, somewhat of a revelation to exporters that vexatious problems of this kind are also to be found in customs administration abroad. Although foreign importers are usually burdened with the routine of customs house entry, many features of foreign tariff laws come directly to the attention of exporters, and when foreign branch establishments are maintained and goods are consigned to them, it is the American exporter who actually acts in the capacity of a foreign importer.

Foreign countries, as well as the United States, have tariff laws and customs regulations. In a few isolated instances the laws are simple and the duties light. No duties are levied in the Straits Settlements, and in the Falkland Islands, Hong Kong, and the Federated Malay States, only spirits and tobacco are taxed, everything else entering free of duty. A few countries apply a uniform rate of duty on practically all imports, thereby reducing customs problems to a minimum. In Egypt, for example, a flat rate of 8 per cent is levied on nearly all goods, plus ½ per cent for quay and paving dues. The Gold Coast of Africa generally assesses a uniform rate of 10 per cent and in Siam the usual rate of duty is 5 per cent.

These countries are exceptions to the general rule. Each country with which trade is conducted has its own schedules and its own regulations, quite often elaborate and complicated. The exporter is forced not only to comply with such rules as relate to the part he plays but also to recognize the import duty as an important and at times determining factor in the sale of his merchandise. As in the United States, some duties may be so high as to exclude foreign goods from the market, and in any case they either increase the price at which they may be sold or reduce the exporter's profit.

In studying the effect of foreign import duties on the sale of his merchandise, the exporter may find it impossible to ascertain definitely what the duty will be. Even though a shipment has been made and the foreign customs administration has classified and taxed it, there is not always assurance that a second shipment will be accorded identical treatment. In a few countries, especially those in Central Europe (Germany, Czechoslovakia, Austria, and Hungary) advance rulings may be obtained on the basis of samples or complete details submitted. Having been passed upon, the ruling is binding upon all customs houses in the country. The same procedure is provided for in the projected Pan-American Convention on Customs Procedure and Port Formalities. At the present time, many Latin American countries grant customs ruling prior to shipment but usually these rulings are only advisory in character.[1]

Careful attention is to be paid to customs regulations in packing merchandise. When specific duties are levied on a gross weight basis, the weight of the packing is to be reduced to a minimum consistent with safety. Moreover, different rules are found to apply on packages in which two or more different articles are placed, or in which advertising material is included. In most countries each article is taxed according to its own classification but in Honduras, for example, the entire package is assessed at the rate applying on the highest-dutied article. If articles dutiable on gross weight are mixed with others assessed differently, Paraguay taxes the entire shipment on its legal weight and adds a 25 per cent surcharge. If different articles are shipped in the same container and no penalty is incurred, extreme care is to be taken in preparing the documents.

The tariff laws of the different countries prescribe the documents required for all imports. Many countries stipulate that a consular invoice be prepared by the exporter and in some cases the fees for legalizing this document by consular representatives are high. This is especially true of the Latin American countries. Guatemala imposes a fee of 2 per cent ad valorem, to be paid by the shipper with an additional 6 per cent assessed against the consignee—a total of 8 per cent. For Brazil the fee is 6 per cent, for Ecuador and for Peru 4 per cent.

In lieu of the consular invoice, most European countries as well as Japan, Argentina, and Uruguay require certificates of origin, particularly in case entry under conventional rates of duty is to be claimed. British countries have adopted a standard form of invoice and declaration which acts as a statement of value and of origin.

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[1] *See Commerce Reports,* May 19, 1930, p. 406.

Such documents are required presumably to enable foreign customs administrations properly to levy duties as affected by value, weight, and/or country of origin. In some cases declarations are to be made in the precise tariff nomenclature in which the goods fall. Sometimes shipments are to be marked with the country of origin.

Failure on the part of the exporter to comply with some regulation as it applies to marking, numbering, description, weights, values, certification, etc., may lead to the payment of fines by the importer. In some countries the vigilance of customs officers in detecting irregularities is effectively sharpened by a simple device. For example, Article 664 of the Mexican Custom-House Regulations establishes the following provisions relating to the distribution of additional duties or fines which are imposed for infractions of the customs laws:

> When there is an accuser. To the accuser, 50%; to those who make the arrest, 15%; chief collector, 10%; accountant, 5%; guards, 5%; to the fund for arrest expenses and rewards to employees of the custom-house, 5%; reserve or foresight fund, 10%.
>
> When there is no accuser. To those who make the arrest, 50%; chief collector, 10%; accountant, 5%; chief of the guards, 20%; fund for arrest and expenses and rewards to employees of the custom-house, 5%; reserve or foresight fund, 10%.[2]

CUSTOMS TARIFF LAWS

Prohibitions, Restrictions and Free List.—Not everything may be imported into or exported from every country. Export restrictions are less common than in the past, but there are always some articles or classes of goods which are prohibited from importation.

Prohibited imports, in peace time, generally include such articles as are not deemed proper for use in the importing country. They vary under different laws and fall in several categories.

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[2] *Weekly News Bulletin*, American Chamber of Commerce of Mexico, City of Mexico, Oct. 13, 1926.

There are immoral articles, such as obscene books and pictures, lottery tickets, etc.; unhealthful products, such as impure foodstuffs, smoking opium, adulterated foodstuffs, etc.; misrepresented products, made so by false or improper labeling or marking or by counterfeit designs or copyrights; products excluded for humanitarian reasons, such as egret plumes in the United States, wild animals, etc., detrimental to agriculture; products prohibited for economic or political reasons, such as explosives and firearms in many Latin American countries, and products of convict labor.

Still another group of articles comprises those which are restricted as to the amount that may be exported or imported. In the Soviet Union no commodities may move in foreign trade unless properly licensed by the Government. The same plan was followed by most of the belligerents during the World War.

An example of restrictions that may be encountered is found in the recent action of the Commonwealth of Australia. In order to reduce the volume of imports coming into the country an emergency tariff measure, effective on April 4, 1930, has been enacted. This provides that one group of designated commodities, including agricultural implements, hardware, iron and steel products, construction materials, etc., may be imported only with the previous written consent of the Minister of Foreign Trade and Customs. A second group, comprising unfermented grape wine, unmanufactured tobacco, cigars, cigarettes, matches, and locomotives may be imported to the extent of only 50 per cent of the volume of such imports for the year ending March 3, 1930. On a third list of articles comprising a large number of products the import duties are increased 50 per cent.

American interests have within recent years felt the impetus of foreign restrictive plans as they affected the production and/or export of articles imported into the United States. Such articles as coffee, nitrates, rubber, sisal, sugar, etc., come readily to mind in this connection.

Prohibited, as contrasted with restricted, exports are uncommon in this era. Formerly, a prominent phase of commercial policy embodied prohibitions but to-day they are found only in a relatively few lines which, to the country imposing them, are of transcending significance. In the International Convention for the Abolition of Import and Export Restrictions and

Prohibitions, for example, several signatory powers singled out a few items, the prohibited export of which could not be lifted at any time. These articles are, in Italy, iron ores and corn; in Portugal, pine resin; in Czechoslovakia, quartzite; in Rumania, iron, copper and manganese ores, and crude oil; in the United States, helium gas; in Egypt, certain animal products, livestock, and eggs; and in Estonia, certain precious stones and platinum.

A group of temporary exceptions to the application of the convention relates to certain articles, principally scrap iron and scrap of other metals and alloys and dyestuffs.

In contrast with these restrictions and prohibitions, certain articles are placed on the free list, subject to the proviso that surtaxes, stamp dues, etc., may be charged.

Export Duties.—In addition to import duties, some countries also impose export taxes on outbound commodities. In the United States this practice is prohibited by the Constitution, and export duties are not imposed by other leading commercial nations.

> In contrast are those countries or colonies which levy export duties upon all, or most, products leaving their territories. This practice of general export duties is found principally in Haiti, Salvador, Argentina, Uruguay, and most of the States of Brazil; in Arabia, China, Egypt, Iraq (Mesopotamia), and Syria; in Albania, Bulgaria, Portugal, and Rumania; in the Belgian Congo and certain of the colonies of Denmark, France, Portugal, and Spain; and in a few minor British colonies. These general export duties are usually a fixed percentage of the value, ranging from 1 to 5 per cent and in some instances up to 10 and 16 per cent.[3]

In some instances French, Portuguese, and Spanish colonies grant favorable rates of export duty in case the merchandise is consigned to the mother country. In some cases distinction is also made between European and non-European ports of destination, and "the Portuguese colonies distinguish, in the rates of duty levied, between vessels of Portuguese and of other nationality."

Methods of Payment.—In some countries where the paper currency is depreciated or where it fluctuates in relation to the gold standard, duties may be assessed on the basis of the latter. Since the only circulating medium of legal tender is the undervalued paper currency, the amount of duty to be paid is greater than at first glance is suspected. The countries in which this practice is followed include some of the South American states and some of the smaller nations in Europe. Where currency deflation has been established upon a permanent depreciated basis, the spread between customs duties assessed and payable is insignificant. In Chile, for example, duties are levied on the basis of gold pesos, and the paper peso, in which they are paid, is practically of the same value. On the other hand, Brazil requires that 60 per cent of the duty be paid in gold milreis and 40 per cent in paper. As gold is not available, the former is to be converted at the ratio of one gold milreis to 4.567 paper, fixed by the decree of May 23, 1928.

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[3] *Export Duties of the World*, Bureau of Foreign and Domestic Commerce, Foreign Tariff Series No. 42, 1927, p. 1.

Occasionally duties are levied in the currency of another country as in the case of several Central American states where the United States dollar is employed and in Paraguay where duties are assessed in Argentine gold and are payable in local Paraguayan currency at the current rate of exchange. Mexico levies import duties on the basis of the silver peso and they are payable in paper at the current ratio.

A very complicated method of determining the amount of duty to be paid prevails in Italy. The rates are assessed on the basis of the gold lire, valued at 19.3 cents. To arrive at the amount payable in paper lira, the duty is multiplied by a decimal which measures the relation between gold and paper. For example, with the current exchange value at 5.27 cents, gold duties are multiplied by 3.67 to determine the sum to be paid. In addition, a coefficient may be levied to further enhance the duty. The duty on revolvers, for example, on a gold basis is assessed at 5 per cent; the coefficient is 1.8. The product of these two makes 9 which added to the quoted rate of 5 per cent raises the duty to 14 per cent. This in turn is multiplied by the current exchange ratio of 3.67, equaling 51.38 per cent of the value as the actual amount in paper lira to be paid for duty.

A further method employed to fix the ratio between gold and paper for customs duty purposes is to establish a fixed customs exchange value. For example, in Yugoslavia eleven paper dinars are equal to one gold; in Greece fourteen paper drachmas equal one gold; and in Bulgaria fifteen paper leva are taken as the equivalent of one gold lev for duty purposes.

Ad Valorem and Specific Duties.—There are two different bases on which duties may be levied. On the ad valorem basis, the rates are a certain percentage of the value of the merchandise, while specific duties are a stated amount per defined unit of merchandise.

The ad valorem basis is desirable because of its flexibility, by which duties will vary in incidence exactly as intended. If the value of an article dutiable at 20 per cent should become double the value it commanded when the duty was established, the burden of that tax will remain exactly the same, while under the specific plan the duty would be only one-half as heavy as intended. To administer such a system, particularly in case the value of every article so assessed must be appraised, an elaborate and costly administrative machinery may be necessary. As expressed by the Trade Barriers Committee of the International Chamber of Commerce at the World Economic Conference in Geneva, May 4, 1927 "ad valorem duties give rise to continual difficulties of application, . . . they facilitate covert discrimination and certain fiscal ruses designed to increase indirectly official customs tariffs." The committee believed, as a matter of principle, that specific duties are to be preferred to ad valorem.

Specific duties possess the advantages of definiteness and ease of administration; they are more reliable and more easily verified. If a duty is ten cents per pound of an article, it is a simple matter to determine the tax. As articles become more complex in their inherent distinguishing characteristics and thus become distinct in quality although identical as to type, the specific duty weighs unevenly on the cheaper varieties. On the other hand, when efforts are made to vary specific duties in order more equably to distribute the tax burden, an improper distinction may be set up. The famous Argentine watch tariff, for example, levied duties according to the watch case and the number of jewels which were taken as indicating value, no importance being attached to movement and workmanship. The effect was to levy a high duty on ornate and showy models and comparatively low rates on high quality and really expensive watches.

Dutiable Value.[4]—In assessing ad valorem duties the principal question relates to the determination of the value on which the percentage duty is to be levied. By far the greater number of countries of the world define this value as "c.i.f. port of entry," "value in port of importation," etc. This value is usually determined from the invoice. In some instances it is even in excess of this. Peru, for example, adds 5 per cent to the c.i.f. value for the purpose of covering transportation expenses from the port of entry to the warehouse of destination. In Uruguay dutiable value is defined as the value of the merchandise in the warehouse in Montevideo. France fixes the basis as the value of the goods at the time they are presented to the customs. In Japan it is the wholesale market value at the time of importation and in the port of entry. Brazil sometimes defines value as the wholesale price, less duty, in the market of importation, and this amount increased by 10 per cent. Australia takes the price f.o.b. vessel, port of export, and adds 10 per cent to arrive at dutiable value. New Zealand follows substantially the same procedure.

The alternative of these plans is to assess the duty on the basis of the value in the country of exportation. This usually is the value prevailing at the time and place of export. A relatively small number of the nations of the world employ this basis which not only is more difficult to determine but also yields a lower revenue on a given percentage of duty.

Finally, dutiable value in a few countries is determined wholly or alternatively by means of a schedule or tariff of values annexed to the customs law. These "legal" values are applied irrespective of the actual price which a particular shipment might command at the time. In view of the rigidity involved, the duties based on these values are as unalterably fixed as in the case of specific duties.

Determining Weights.—Specific duties, rather than being predicated upon value, are levied on the basis of a physical unit, or a method of measurement, such as weight, capacity, length, etc. The principal problems in this connection relate to the different weight bases employed. These are broadly three in number, *viz.:* Gross weight is the total weight of the merchandise together with all packing, inside and out. Net weight is the actual weight of the merchandise without any packing whatever. Legal weight is the net weight as defined, plus the weight of paper or cardboard, boxes, tins, or other interior packing generally employed to arrange the article in units for retail distribution.[5]

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[4] *See* League of Nations, Economic and Financial Section, C.E.I. 28, *International Economic Conference,* Geneva, May, 1927.

Except for minor variations, these definitions are generally applied throughout the world. In some cases where net weight is employed as the basis of duty assessment, the law so defines "net" that it agrees with the definition of legal weight given above.

Gross weight is employed exclusively by some countries but its widest application is in connection with the other definitions. In such countries as Salvador, Colombia, and Venezuela, practically all specific import duties are assessed on the basis of gross weight. In countries which employ two or more weight bases, gross weight is generally employed for commodities requiring no packing, their gross weight being equivalent to their net weight. Iron and steel articles, coal, phosphate, grain, etc., are types of bulky products which often move without containers.

Actual net weight as the basis for specific duties is followed almost exclusively in Canada, Belgium, Norway, and Japan. Legal or legal net weight is used extensively in Denmark, Nicaragua, Haiti, and in many South American countries in conjunction with gross and actual net weight.

A fourth method of determining dutiable weight is found in the use of "gross less tare." In some countries, including Rumania, Poland, Brazil, Sweden, Peru, and Finland, the tariff schedule sets forth the tare which may be deducted from gross weight for arriving at dutiable weight. This tare allowance varies with each commodity in connection with which it is employed. The resulting weight is closer to net or legal net weight than it is to gross. In fact, Brazil prescribes this method of computation to arrive at what is called legal weight.

The application of these different bases reveals further ramifications of the problem. In most instances, the tariff law states which weight basis is to be employed either for individual items taxable by specific duty or for the tariff as a whole. There are several countries, moreover, in which the application of these weight bases is dependent upon the amount of the duty. In Italy, for example, it is provided that gross weight is to be employed in case the rate of duty does not exceed thirty lire per one hundred kilos; that actual net weight be used if the duty is specified as more than fifty lire; and that on articles dutiable from thirty to fifty lire per hundred kilos, legal net weight be employed. France, in connection with her minimum and intermediate schedules of duties, provides that gross weight be used if the basic duty is thirty francs or less and if greater than thirty francs, net weight is to be employed. In Albania, where a similar distinction is made as between gross weight and gross with tare allowances, it is provided that actual net weight may also be utilized in case the owner prefers and so informs the customs authorities.

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[5] It may also be gross weight less tare allowances.

Surtaxes.—In many countries, even though the actual duty has been carefully computed, additional charges may be assessed against imported merchandise. Such changes generally come under the heading of surtaxes and they are levied for the purpose of augmenting the governmental revenues or of meeting some fixed commitment for construction projects, deficits, or other revenue needs.

Surtaxes are levied in about twenty countries including more than half of the Latin American republics. They are usually a certain percentage of the duty, but in a few cases they are levied ad valorem. The percentage of the duty assessed as a surtax is as low as 2 per cent in Mexico and Norway and 5 per cent in Honduras and the port of Shanghai, China. At Hankow, China, it is 7 per cent and at Tientsin 4 per cent. From these small amounts it rises to 17.81 per cent in Colombia, 20-22 per cent in Peru, 20 per cent in Bolivia, 25 per cent in Nicaragua and 56.55 per cent in Venezuela. Greece levies an octroi tax of 25 per cent of the duty and a forced loan tax of 30 per cent of the combined duty and octroi.

In lieu of the duty, a few countries levy a surtax on the value of the merchandise. This amounts to 1½ per cent in the case of Paraguay, 2 per cent in Yugoslavia and 6 per cent in Turkey.

Chile imposes a surtax of one-tenth peso per one hundred kilos gross on exports and imports. In Italy, a surtax equivalent to the revenue tax on the same article if produced at home is assessed on all imports weighing twenty kilos or over, and a sales stamp tax is imposed on the invoice value of imports, except raw materials, when the value is officially established.

Some countries, especially the leading nations in the British Commonwealth, impose an anti-dumping duty. In the United Kingdom, under the "Safeguarding of Industries Act" this is fixed at 33⅓ per cent. In Australia, on the other hand, the anti-dumping duty is equivalent to the difference between the fair market value of the merchandise at the time of shipment and the export price to the Australian importer in question.

Tariff Systems.—Under a general tariff system, as now practiced in the United States, duties are identical for the goods of all countries, no favoritism whatever being shown.[6] As this inelasticity does not fit into the bargaining desires of many countries, a second system has been created, whereby one tariff schedule is enacted, but reductions from these rates may be procured by individual countries along specific commodity lines by means of bargaining. The terms of the bargaining agreed upon are negotiated in commercial treaties, and these special concessions or additional ones may in turn be employed for negotiating reciprocity or bargaining arrangements with other countries. When a bargaining or conventional schedule is placed upon a definite and established scale, the maximum and minimum tariff system is found. The minimum schedule of duties in this case applies to all countries that, by means of bargaining and commercial treaties, may receive the application of this minimum scale to the products they ship, while the maximum rates apply to the merchandise of countries that do not enter into such agreements.

Countries which now have two schedules of duties include Austria, Czechoslovakia, Finland, Greece, Hungary, Japan, Poland, Rumania, Spain, the United Kingdom, the Union of South Africa, New Zealand, and other countries in the British Empire. In the case of British nations, the minimum schedule is generally extended only to certain other members of the British Commonwealth, and when, in addition to this concession, it is also desired to negotiate treaties leading to tariff reductions with countries outside of the Empire, a third schedule may be added.

The preferential or multiple tariff system may provide three distinct schedules of duties. The highest, or general, applies to all countries which do not, or are not able to, bargain for more liberal arrangements. The middle or intermediate schedule is then held out as the attraction to foreign nations to negotiate treaties whereby these lower duties may be applied. The minimum or preferential schedule is available only to other members of the same empire, but the preferential schedule is not extended to all of them automatically. Each particular application of the preferential duties is the result of separate negotiation. The Union of South Africa, for example, with two schedules, extends the lowest scale only to the United Kingdom, Canada, and New Zealand. Canada, with three schedules, extends preferential rates to all British countries except Newfoundland and Australia, the latter, however, having special arrangements for a few products.

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[6] Cuba is considered in a special light by the United States.

It will be remembered that the United States has abandoned the policy of general reciprocity and bargaining in tariff matters. The operation of the unconditional most-favored-nation clause in the treaties which we have so extensively negotiated during the past decade and the President's administrative powers, have safeguarded our position in tariff treatment by foreign countries.

The following brief résumé indicates the tariff advantages and disadvantages faced by American products in competing foreign markets:

> Products of the United States receive most-favored-nation treatment —i.e., as low duties, or as favorable conditions of admission, as are accorded to the same products from the most-favored country—in practically all countries of the world, with the principal exception of certain parts of the British Empire (where preferential treatment is, in some cases, given to the products from Great Britain and certain other parts of the Empire), and of the colonial areas of the various powers (where preferential treatment is often given to the products of the home country). France and El Salvador are about the only independent countries where any American goods are subject to higher duties than those from the most-favored nation country; these handicaps under the French and Salvadorian tariffs apply, however, only to a limited number of American products.
>
> On the other hand, products of the continental United States are at a distinct advantage in the noncontiguous territories, Porto Rico, Alaska, and Hawaii, and in the Philippine Islands, where they are admitted duty-free. In Cuba, American products receive exclusive concessions of 20 to 40 per cent below the duties levied on similar products from any other foreign country. Moreover, since not all

countries have as wide-spread favored-nation relations as the United States, American products are at an advantage in a number of foreign markets compared with those of Canada, or whatever the other competing country may be.[7]

Sources of Tariff Information.—American importers may procure information on the United States tariff and its application from a number of sources. Published data are obtainable from the United States Tariff Commission, in several of its studies, and from the United States Treasury Department's weekly *Treasury Decisions*. The tariff of the United States is to be found in convenient and indexed publications obtainable from the Superintendent of Documents, and in the *Customs House Guide*. Of course, the officers to be found in every customs house are well posted on these matters.

Tariff laws of all countries, including the United States, are published in *Kelly's Customs Tariffs of the World* and also in *The Shipping World Year Book*, both of which are issued in Great Britain. The *Exporters' Encyclopædia* is especially useful for determining the consular regulations of foreign countries. Since tariff laws are often subject to current changes, accurate and up-to-date information should always be sought regarding a particular rate. Data of this nature may be procured from the Division of Foreign Tariffs of the Bureau of Foreign and Domestic Commerce, and through its district and coöperative offices. Foreign consular officers in the United States are also posted on the tariff laws and customs regulations of their respective countries.

Unofficial contacts are likewise valuable for obtaining current information as well as suggestions as to the practical application of regulations. Export salesmen and import buyers, foreign branch establishments, and customers have learned by experience the best ways of meeting the requirements of the different countries in which they are interested.

INTERNATIONAL CONVENTIONS RELATING TO TARIFF LAWS

It is only within recent years—since 1923—that any serious effort has been made to bring about an international understanding of the tariff problem. The wide divergence of plans, rules and regulations as well as the continuance of wartime restrictions and prohibitions had created a situation in which the normal flow of commerce was impeded. Groups of business men, united in the International Chamber of Commerce, as well as the League of Nations, inaugurated a definite program of reform. With the pooling of so many national matters into a world consciousness, as has resulted from these and other organizations, the prospects of correcting many of the existing evils became more likely of accomplishment than at any time in history.

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[7] Memorandum of Division of Foreign Tariffs, United States Bureau of Foreign and Domestic Commerce, Jan. 27, 1930.

The record of the past decade, therefore, marks a slow but steady progress toward international understanding and reform. One of the first problems attacked was the onerous customs formalities of different nations. An International Convention for the Simplification of Customs Formalities was signed at Geneva on November 3, 1923. This became effective on November 27, 1924, as between the powers which had ratified it, but it is still inapplicable in the United States, Japan, South America, and several European nations. According to this agreement the contracting states "undertake that their commercial relations shall not be hindered by excessive, unnecessary or arbitrary customs or other similar formalities." The signatories bind themselves to revise and simplify their tariff laws and to remove every hindrance to trade "except that which is absolutely necessary in order to safeguard the essential interests of the state." Moreover, the parties to the convention agree to give prompt advance notice of changes in customs laws and regulations and to publish complete tariffs in lieu of continuous and unconnected amendments and rulings which alter the basic law.

This convention may be viewed as an initial step on the part of the League of Nations, the International Chamber of Commerce and other interested bodies leading to the removal of irritating and unnecessarily restrictive measures found in the tariff policies of most countries. As a basic statement of purpose it provides the foundation on which more detailed agreements might be negotiated.

Another phase of this general subject, relating specifically to import and export prohibitions and restrictions, was next approached in accordance with the resolution of September 25, 1924, of the Fifth Assembly of the League of Nations. The question was studied by the Economic Committee of the League as well as by the Trade Barriers Committee of the International Chamber of Commerce and it formed a central topic of discussion at the World Economic Conference in Geneva, May 4, 1927. As a result of these efforts, success was foreshadowed by the calling of a diplomatic conference of thirty-four states at Geneva late in 1927 and another of twenty-nine states in 1928, to complete the convention. The resulting agreement has been hailed as "the first multi-lateral treaty regulating commercial relations between states."

This International Convention for the Abolition of Import and Export Restrictions and Prohibitions became effective provisionally as between nineteen states for a period of six months beginning January 1, 1930. The active parties include the United States, Japan and the principal countries of Europe. During this period of six months, each state is bound to promulgate the provisions of the agreement so far as the particular country is concerned.

The obstacles toward which this convention is aimed may be observed from the following significant paragraphs in the Final Report of the World Economic Conference:

> The experience of the years since the war proves that import and export prohibitions, and the arbitrary practices and disguised discriminations which result therefrom, together with the obstacles of all kinds placed on the circulation of goods and capital, have had deplorable results by hampering the normal play of competition, by imperilling both the essential supplies of some nations and the not less indispensable markets of others, and by bringing about an artificial organization of production, distribution, and consumption.
>
> Experience has shown, moreover, that the grave drawbacks of these measures have not been counterbalanced by the financial advantages or social benefits which were anticipated.
>
> It is therefore important for the recovery and future development of world trade that the governments should forthwith abandon an economic policy which is injurious to the interests both of their own and other nations.[8]

The direct purposes of the convention were to eliminate the continued and now antiquated phases of wartime trade control.

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[8] Quoted from pamphlet, *The International Convention for the Abolition of Import and Export Prohibitions and Restrictions*, Chamber of Commerce of the United States, Foreign Commerce Department, p. 3.

These at present include principally licensing requirements and limitations on the quantity of merchandise which may be exported or imported. The restrictions "affect a wide range of American producers, from the growers of prunes to the manufacturers of automobiles."[9]

Two exceptions to the convention reduce its application in ways which, as gleaned from its title, might otherwise be expected. These are, first, that the tariff and treaty-making policies of the signatory countries are in no way affected. In the second place, it imposes no obligation as regards restrictions for "public security, for moral or humanitarian purposes, in connection with the traffic in arms, the protection of public health or plant and animal life, nor those designed to extend to foreign products the same régime as is applied to similar native products (such as liquor prohibition). Emergency situations are allowed for in excepting measures that countries may find it necessary to take, under extraordinary and abnormal circumstances, for the purpose of protecting their vital interests."[10]

Although not adhered to by a sufficiently large number of countries to make it as effective as desirable, and in spite of the exceptions, temporary and permanent, made by individual signatories, the Convention represents a step forward in the world movement toward greater simplicity in tariff matters.

A subsidiary agreement for the abolition of restrictions on the import and export of hides and skins and of bones became effective as between seventeen countries on October 1, 1929.

A further step in this direction is to be noted in the recent "tariff truce" among European nations.[11] This program was initiated by resolution of the Tenth Assembly of the League of Nations. According to this "commercial convention and protocol" twelve countries (eleven of which signed the agreement) bind themselves for a period of one year from April 1, 1930, not to denounce existing commercial treaties with each other. Changes in tariff rates may be considered, however, by giving two months' notice, and changes are authorized in case of unforeseen conditions of an exceptional nature such as an economic depression. It is agreed that more favorable bilateral agreements or Covenant rights or obligations are not to be invalidated.

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[9] *Commerce Reports*, Jan. 6, 1930, p. 12.

[10] *Ibid.*

[11] *Monthly Summary of the League of Nations*, Nov. 15, 1929. *See also Commerce Reports*, April 7, 1930, p. 12.

A fourth subject toward which the League of Nations has directed attention is the unification of customs nomenclature. By means of a uniform international nomenclature it will be possible greatly to facilitate tariff agreements as well as the efficacy of the most-favored-nation clause in commercial treaties. Efforts toward such unification were attempted at international conferences in 1900 at Paris and in 1913 at Brussels, but no progress was made at either gathering. The Economic Committee of the League of Nations is now progressing with this work, taking up the commodities schedule by schedule.

Another important convention of recent origin is the Pan-American Convention on Customs Procedure and Port Formalities, which was drafted in pursuance of the recommendations of the Fifth and Sixth International Conferences of American States and the Third Pan-American Commercial Conference. The important features of this Convention, as they relate to customs procedure, are as follows:[12]

1. Uniform definition of gross, net and legal weights (as defined in this chapter). Net weight to be used in preference to legal and gross only when no other basis is possible.
2. Ad valorem duties to be levied on the value f.o.b. port or point of export, with the definition of f.o.b. depending upon the legal interpretation of the importing country.
3. Consolidation of customs charges (duties, taxes, etc.).
4. Articles in mixed packages to be charged for separately, if properly entered on documents, and weights to be properly distributed.
5. Customs officials to be paid by governments and, together with courts rendering final decisions, not to participate in such fines as may be imposed.
6. Changes in duties and regulations to be made on thirty days' notice.
7. Exporters to mark packages as most convenient to them, provided the proper declaration is made in customs documents.
8. Examination of samples of merchandise to determine their tariff classification even before any are actually shipped.

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[12] *Bulletin of the Pan-American Union,* Vol. LXIV, No. 1 (January, 1930).

9. Proper safeguards of to-order shipments, the use of which is illegal or restricted in Colombia, Bolivia, Venezuela, and Ecuador.

The ratification and promulgation of this convention among the American states will go a long way toward eliminating many of the perplexing customs problems faced by exporters to these markets.

Although marked progress in the matter of simplifying customs formalities, and of eliminating tariff restrictions, prohibitions, etc., has been made, the enormity and complexity of the problem leaves much to be done. The International Chamber of Commerce finds an entire group of untouched problems which it designates as "administrative protection" or "measures directly or indirectly designed to hinder the importation of foreign goods or to exclude them from the market." They include the following:

> (1) Obligation to present certificates of origin and consular invoices; (2) the collection of additional duties; (3) the obligation of the importer to furnish the exact technical tariff designation of the goods; (4) the exact extent and application of the obligation to indicate the country of origin on the goods; (5) units of weights and measures accepted; (6) as prompt repayment as possible of custom duties wrongly levied; and (7) authoritative information on all tariff questions.[13]

Further progress in correcting these problems and in other similar directions is fully anticipated.

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[13] *Commercial Policy and Trade Barriers,* International Chamber of Commerce, April, 1929, p. 17.

CHAPTER XXXIX

PACKING FOR OVERSEAS TRADE

Packing for shipment is now recognized as a highly important transportation and merchandising problem, and this conclusion applies with added significance to foreign trade. Just as a nation builds up a reputation for quality, price, credits, and sales policies, it gains a name for the character of the packing that its exporters employ. While American exporters were widely criticized before and even during the War because of the poor quality of their packing, such broad arraignment is no longer supported. Criticisms that are now heard are spasmodic and, in general, the quality of American packing methods recognizes no superior in any other exporting nation.

The preparation of goods for shipment is clearly the responsibility of the exporter and as a nation expands its exports of manufactured goods, packing becomes more widely a national problem. Raw materials as a rule do not call for the same precision in container methods as do finished products because they are less subject to damage and to legal requirements and obstacles.

When manufacturers export directly, they realize the connection between good-will and the condition of merchandise upon arrival. Moreover, they will be forced to handle complaints that may arise due to loss or damage resulting from improper packing. If American middlemen conduct the trade, the manufacturer has a more remote interest in the foreign business and he may look no further than the port of export. Unless the middleman intends to repack merchandise that reaches him as a domestic shipment, it is necessary to supply packing instructions to the manufacturer who supplies the goods. The usual instructions convey the following information:

"All goods must be safely packed for export, in smallest possible space, consistent with safe carriage. All boxes must be strapped. Marks on each box must be stencilled, together with shipping numbers, in good size letters and figures. Gross, net and legal weights must also be marked on each package.''

GENERAL FACTORS INFLUENCING EXPORT PACKING

There are a number of factors that influence the packing of goods for export in a general way, irrespective of the kinds of merchandise shipped.

Transportation and Port Facilities.—With the exception of shipments made to Canada and Mexico via rail route, exports of the United States reach foreign destinations by steamship and in case the consignee is located at an interior point, there is a further movement of the shipment. These conditions present a packing problem far more difficult of solution than is experienced in preparing goods for shipment via rail lines in the United States. It is a well-known fact that the greater the number of handlings to which goods are subjected, the greater becomes the liability to damage. After arrival at the port of export, the shipment is transferred to the vessel and in case the steamer is not available, the goods are stored until its arrival. All ports of the United States are not equipped for the transfer of export shipments directly from freight cars to vessels, much freight being transferred from cars to steamship pier or vessel on trucks, drays, lighters, or other conveyance. In all of these operations, the goods are subjected to additional handling.

The shipment is loaded into the hold of the vessel, usually by means of ship's machinery, unless the weight is so great that special facilities must be employed,[1] and is stowed in the holds of vessels as compactly as possible. Packages that are placed in such position as to support the pressure of a number of other packages are necessarily subjected to a severe strain for the duration of the voyage. Moreover, a certain rolling motion of the vessel enhances this strain considerably; and, in case of storm, the pitching and tossing of the vessel is a severe test of the adequacy of the protection afforded merchandise by the packer.

Upon arrival of the vessel at the port of import, the shipment is subjected to further handling in unloading, passage through the customs and final removal to ultimate destination. At the most important foreign ports, unloading facilities are usually adequate for the expeditious and safe handling of merchandise. This is not always the case, however, and at smaller and less frequented ports, the facilities may be antiquated or almost totally lacking. The West Coast of South America is cited as a conspicuous example of an entire coastal stretch, where because of the formation of the coast line there are no natural harbors in Chile or Peru. Vessels lie in the open roadstead, riding at anchor, port accommodations are lacking and the loading and unloading of merchandise is hazardous. Valparaiso, Chile, has expended considerable sums of money for harbor improvement and an extended breakwater offering some protection has been constructed. Within this shelter the government has built the customs pier.

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[1] *See* Chapter XLII.

When vessels are so situated in the open sea, they are dependent upon lighter service for unloading. A graphic description of the dangers encountered in this method of handling is embodied in a report submitted by a representative of the United States Department of Commerce, with reference to the conditions found at Mollendo, the principal port of Peru and a gateway to land-locked Bolivia:[2]

"All classes of merchandise are discharged from steamers into open lighters or barges. These boats come out from shore on the arrival of a steamer, fasten to her with a bow and stern line, and swing clear, as the ocean swell keeps both barge and steamer moving and their up-and-down motion is by no means coincident. A sling full of merchandise, consisting, say of a box, a barrel, and a crate weighing, perhaps, 1,500 pounds, is swung over the ship's side and lowered to within 15 to 29 feet of the water, and when the barge and the swinging sling are exactly opposite, down goes the merchandise with a rush to catch the barge. The package on the bottom receives the full force of the impact." If a sudden pitch of the sea removes the alignment of vessel and lighter, the goods drop into the water.

Moreover, at certain seasons of the year it is extremely hazardous to attempt to discharge and vessels are sometimes detained several weeks out in the roaring and rushing roadstead awaiting a favorable opportunity to draw nearer the shore for the purpose of unloading into lighters. It is true that navigation conditions on this coast are unusual but the necessity of unloading cargo with the aid of lighters, barges, junks, sampans, and other craft is common at out-ports of other countries.

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[2] *Selling in Foreign Markets*, United States Bureau of Foreign and Domestic Commerce, Miscellaneous Series No. 81, p. 600.

In case the goods are to be delivered at an interior point, further movement and consequent handling is encountered. In some countries, such as Colombia, Venezuela, Peru, and Ecuador the consuming public is mainly located inland, requiring that practically all imports be transported for some distance after arrival in the country. In other cases, countries are landlocked and can only be reached through a foreign port. Bolivia, Switzerland, and Czechoslovakia are examples of countries of this type.

If interior transportation conditions are adequately developed this presents no difficult problem. On the other hand, means of transit may be primitive and the shipment may be subjected to various and severe handlings. Railroads, or waterways are not always available for interior transportation, and in their absence, beasts of burden are most frequently resorted to. The following instructions submitted by an importer in Bucaramanga, Colombia, to an automobile manufacturer will serve to illustrate the conditions of interior transportation encountered in parts of that country:

> As I suppose you know, machines travel from Puerto Colombia to Barranquilla by rail; from Barranquilla to Puerto Wilches on board the Magdalena River steamers; at Puerto Wilches they take the railroad that is under construction and travel 62 kilometers or up to a point called Puerto Santos; at this place, the machines must be packed for transporting by mule; the heavy parts such as the motor are taken by two mules teamed; these two mules can transport 310 to 320 kilos; the other parts that do not weigh more than 75 kilos come in the shape of a load on a single mule.

The export shipment is thus subjected to five rehandlings after arrival at the port of import; and such methods of transportation are necessary for shipments destined to other more important cities in the country. These conditions should be known by the exporter so that he may pack in such way as satisfactorily to meet them. The accepted method of transportation by pack animals is for each animal to carry two packages, one on each side. A mule, for example, can carry 200 to 250 pounds, but if packages should weigh 150 pounds he would be able to carry only one of them. Mules and burros are used for interior transportation in the mountainous parts of many countries; llamas are employed on the Andes highlands; camels are essential links in the transportation systems of some Asiatic and African countries, while in China, human beings frequently are employed for such services.

Packing to Protect Shipments from Transportation Risks.—The keynote of adequate packing designed to carry merchandise safely through transportation and shipping risks obviously is strength. The problem naturally varies according to the commodity. The susceptibility of an article to damage will be a determining factor. Locomotives may not be packed at all, and the same is true of some raw materials, but such instances are unusual.

In the first place, a container must be employed that will hold together during the entire trip. Packing used in domestic trade may be satisfactory, or it may require reinforcements by using heavier lumber, cleats, straps, etc., or it may be wholly inadequate. It is inadvisable to learn of the most effective methods of packing solely through experience. There are organizations whose business it is to devise and test the strength and other properties of different types of packing.

In the second place, the various units in a packing box must be packed so that they will not damage each other. This may be accomplished by the use of fiber separations, or excelsior, or balsa-wood pads, or bracing, or any of the various methods employed in domestic trade. The difference existing in foreign trade is the greater likelihood of damage so that containers that are considered satisfactory in domestic trade are not necessarily adapted to the other.

Climate.—Climate as a factor influencing packing is especially important in the case of articles readily affected by heat and moisture. Not only is it essential for the exporter to be cognizant of the climate of the country to which the shipment is destined, but also to be informed as to the route which the shipment will take. Goods shipped to the south temperate zone, for example, will cross the equator during their movement and they must be protected from the heat and humidity encountered in this tropical belt, in case they are susceptible to any injury thereby. In tropical areas there is often a pronounced rainy season and damage that goods may sustain, if not properly protected, is considerable. Moisture and heat set up fungoid growths, while rust and sweating are also sources of annoyance and loss.

The proper protection of merchandise from such climatic conditions is predicated more upon the inside packing afforded the goods than upon the outside container. In shipments to India, for example, merchandise is peculiarly susceptible to damage from tropical conditions because of the hot days and nights during which the goods are in the stuffy hold of the vessel en route to that country and the same holds true for other tropical or subtropical countries that are reached only after many days of travel in the tropics.

Climatic conditions also affect the packing problem in other ways. It sometimes happens that due to the great accumulation of merchandise resulting from the simultaneous arrival of several vessels at a foreign port, or from even the arrival of one vessel, all goods cannot find immediate shelter. This may be due to the fact that the size or number of warehouses is insufficient to handle expeditiously peak loads. During such delays, merchandise is left unprotected in the open and at the mercy of the elements. In Japan, for example, "frequently a shipment of imported goods remains on the wharves in the customs compound in Yokohama for six weeks or more after being unloaded from the ship, because of delay in getting the goods passed through the customs. During this time the goods are often fully exposed to the weather, and this is particularly likely to happen if they are packed in large cases. The salt, humid air of the water front causes exposed iron or steel to rust very rapidly. . . ."[3]

The interior transportation of merchandise by means of pack animals is another condition that causes goods to remain exposed to the weather. Extremes of climatic conditions may be encountered from the tropics of the lowlands to bleak plateaus swept by wind, sleet, and snow. Usually no effort is made by those in charge of the caravans to protect the merchandise they are carrying. In some cases, canvas is spread over the packages but this is seldom, if ever, in such condition as to provide adequate protection.

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[3] *Packing for Foreign Markets*, United States Bureau of Foreign and Domestic Commerce, Trade Promotion Series No. 1, pp. 212, 213.

Packing to Protect Shipments from Climatic Perils.—A packing case may be of adequate strength to withstand the jolts and handlings to which it is subjected, but the merchandise within may suffer damage because of sweat and rust or other climatic perils. Exporters, therefore, employ many methods to protect goods from the effects of heat or moisture. Each type of product presents its own problem.

One of the most common methods of protecting merchandise from the effects of climatic conditions is by lining the case, box, or other container with waterproof paper. In some instances, additional protection may be obtained by placing the articles themselves in a waterproof wrapper, thus providing two layers of paper. In shipping automobile tires, for example, each tire is first wrapped in waterproof paper and, if shipped in cases, these are lined with kraft asphalt center paper. Biscuits destined for foreign markets call for an exceptional degree of protection from moisture. Some exporters wrap oil paper around the packages of biscuits, then place the packages in cartons that are also wrapped in oil paper, and these are in turn packed in cases.

Hardware is often well protected by wrapping each unit individually in waterproof paper, the pieces then being enclosed in cartons and the cartons in cases lined with heavy, water-resisting paper and stuffed with excelsior. Piece goods, packed in bales, are often first wrapped in tarpaulin, heavy oil cloth, or tar paper, in order that moisture may be effectively excluded.

Perhaps the greatest extreme in efforts to protect shipments from water and dampness is found in the use of metal-lined, hermetically sealed cases. In this type of container, either zinc or tin is generally used and absolute protection from moisture is assured. Motion-picture films, for example, are usually packed in air-tight tins and these, in turn, are placed in tin-lined wooden cases. By soldering a piece of tin to the edges of the tin lining after the case has been filled, absolute protection is provided. Pianos for South Africa are often placed in zinc-lined cases; and leather footwear destined to countries where the shipping hazards are severe, such as the West Coast of South America, is frequently packed in tin or zinc-lined cases.

Metal goods, particularly those with a polished surface, are subject to the dangers of rust and corrosion. In order to guard against this risk, it is customary to coat the surfaces thickly with a slushing oil. These are made of various combinations of mineral, animal, and vegetable oils, with usually petrolatum as the principal ingredient. Such substances must not of themselves be corrosive to the metals on which they are spread; they are required to be sufficiently heavy to coat thickly the surface on which they are to be applied and to remain thereon indefinitely; they must exclude moisture and air and be capable of easy removal when desired. When the direct rays of the sun are likely to be encountered, it is necessary to include a substance, such as carnauba wax in order to raise the melting point. It is advisable to avoid the use of animal fats when shipments are destined to Mohammedan countries.

Pilfering.—In the shipment of certain goods, notably those of relatively small bulk and high value, pilferage is a source of annoyance and loss. During the long interval between the relinquishment of a shipment by the exporter and its receipt by the consignee, the merchandise is in the hands of a number of agencies and persons whose duty is to perform some particular service with respect to its movement. When delays are experienced in making proper shipping connections, or when congestion holds up the passage of the merchandise through the customs, or when rehandlings are called for because of the condition of interior transportation abroad, the likelihood of pilferage is increased. Shipments to certain parts of the world are more likely to suffer pilferage than consignments destined to other areas and it seems, from experience, that the former are principally those countries at which facilities are inadequate or primitive. But pilferage may occur at any point along the route. Merchandise while on the vessel is readily available to the seamen and the exporters of packing house products have had interesting experiences in this connection. The problem is a continuous one from the time of shipment until the safe arrival of the goods. Indeed, pilferage is not confined to foreign trade, by any means, as the freight claim agents of American railroads will testify.

Protection of Shipments against Pilferage.—If packages can be opened, goods extracted, and the missing weight supplied by means of stones or metals and the package closed again without leaving any visible trace of the theft, it is impossible to determine where the pilferage has taken place. Effective devices against this evil consist in rendering a package not only difficult to plunder, thereby lengthening the time required to complete the job and increasing the possibility of detection, but also in so constructing containers that attempts at tampering may be readily detected.

The exporter can do much to prevent pilferage by concealing the identity of the contents of his packages. This can easily be accomplished by avoiding the use of his own name or that of the merchandise on the outside of the container. It has also been suggested that only bonded truckmen be employed, whenever possible, and also that bonded stevedoring and lighterage concerns be engaged in case these services are not performed by the transportation companies.

Many devices have been developed for the purpose of preventing pilferage, some of them being manufactured by concerns holding patent rights, and it would pay an exporter who has suffered pilferage losses to study these methods and discover if any is suitable for his purposes. More common methods of rendering pilferage difficult, if not impossible, include the use of double cases, or flat iron straps, or wire drawn tightly around the middle of the package, or cleats which render the removal of boards difficult. Exporters of hosiery frequently pack their shipments in double cases, the boards of the inside container running at right angles to those in the outside case. The same method is practiced in packing leather footwear which also suffers greatly from pilferage. Automobile tires, when shipped in cases, may be protected by means of metal straps and cleats. In fact, the most common means of combating the pilferage evil appears to consist of this twofold precaution. Various kinds of nails, usually of a type that holds fast in the wood and is difficult to withdraw without splintering the lumber are used. Cement-coated nails, because of their resistance to extraction, are widely employed. In packing hosiery, frequent use is made of nails that leave a large hole in the wood from which they have been removed, thus presenting silent testimony of the theft.

Patented devices, some of which claim to render pilferage impossible, consist of automatic inside locks, various types of strapping machines, seals and sealing devices, patented cases, some of which are collapsible, and different types of clips. All of these have their respective merits and perform a function of at least revealing at once the fact that a package has been meddled with.[4]

Foreign Rates and Customs Duties.—Under this heading come those packing problems over which the exporter has the maximum degree of control in his own packing or shipping department, and for the efficient solution of which he is in a position to realize actual dollars and cents savings. The question of risk enters very little into this problem, as the well-informed exporter may learn in advance what method of assessing charges will be made by transportation companies and by customs houses in foreign countries.

The space occupied by a shipment of goods is often affected largely by the method of packing employed. Because the railroads quote freight rates on the basis of hundred weight, the fact should not be overlooked that the classes into which shipments are placed for rating purposes are determined, among many other factors, by the space occupied by the merchandise. This space varies according to whether the goods are shipped knocked-down or set-up or are otherwise disassembled or reduced in volume. Ocean freight rates, because of the physical impossibility of adding to the carrying capacity of a given vessel and because of the fixed amount of space available for the stowage of cargo, are usually quoted "weight or measurement, ship's option" and the basis that yields the larger revenue will be applied in each particular instance.

Savings in freight rates, both on land and on sea, are realizable by careful attention to this feature of the packing problem. Bulky and irregularly shaped articles should, if possible, be reduced in bulk by disassembly. Machinery of various descriptions and automobiles are conspicuous examples of articles that have been scientifically studied for the purpose of reducing their great bulk. To assist materially in the assembly or setting-up of articles shipped in a knocked-down condition, it is advisable to include a packing list and complete assembly instructions with each shipment. By the use of illustrations and by numbering the steps to be taken in the procedure, the setting-up instructions are made intelligible to a nonmechanically inclined consignee in a foreign country. Nesting of articles of uniform shape is widely practiced in foreign, as well as in domestic trade, and the compression of merchandise, to be shipped in bales, is becoming more common as compression methods are improved.

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[4] For a detailed description of various anti-pilfering devices, *see ibid.*, pp. 104-110.

In all of the efforts to reduce space, it should not be forgotten that the weight of the shipment is also to be considered, but so far as the question of freight rates is concerned, space-saving is of first consideration. Examples of the savings that private shippers may realize in this respect may be drawn from the experience of the Packing Service Branch of the Quartermaster Corps of the United States Army during the War. Faced by a packing problem never before encountered, and aggravated by the dearth of ocean shipping space, careful research was called for.

In a shipment of 6,000 rolling kitchens, a case was devised that saved 22,000 tons of ocean space. By the extensive use of bales rather than the former method of shipping in cases, the Corps saved in 1918 on shipments from New York, $55,000,000, of which $49,000,000 was in ocean freight; and in addition, 58,000,000 feet, b.m., of lumber was saved. Similar savings, in less volume, perhaps, are reported each year by shippers of merchandise who are alive to the possibilities of scientific packing.

When the shipment comes into the hands of the customs officials who then proceed to assess the import duty, the weight of the unit is usually of greatest importance. The exporter has the opportunity of keeping to a minimum the charges against the goods, particularly when customs duties are levied on a basis of weight. If gross weight is applied as the basis for import duties excessive weight becomes unnecessarily costly. When net weight is the basis, as is more often the case, heavy outside packing does not affect the import duty. This is only true, however, if the packing container is of no commercial value. Unusual types of containers, efficient though they may be, are likely to be charged for in addition to their contents.

The immediate wrapping that surrounds the merchandise (paper, cardboard boxes, bottles, cans), is included in the weight used for duty assessment in those countries which recognize legal weight. In such instances it may be more economical to ship the merchandise in bulk and make a separate shipment of the containers. Each will then be appraised for duty on its respective basis.

A further difficulty in connection with customs duties arises in packing different articles, dutiable separately, in one container. In some countries, the whole shipment is assessed the duty applicable to the highest rated article in the group, but if separate entry is made for each article on the invoice such assessment is usually avoided.

Another factor to be considered is the completeness of the article upon examination at customhouses. Many countries levy a lower rate of duty as the product in question comes farther from being complete. The practice of shipping an article knocked-down, therefore, will often result in a saving in import duties, as well as in shipping and handling charges. An exporter will avoid excessive charges by conforming to all of the customs requirements of the countries to which he ships merchandise. In this way he may guarantee to his customer the lowest charges that the foreign country will permit.

Customer's Requirements.—Perhaps there is no aspect of the packing problem that proves so irritating to importers as the deliberate alteration or disregard of instructions by the exporter. When an importer transmits in his order certain specific instructions regarding the routing, packing, marking, or assortment of the shipment, it is safe to assume that he has done so for some good reason. If kilo and half-kilo packages are ordered, it is because the importer's customers are unfamiliar with pounds and half-pounds; if scarlet colors are desired, then orange will not satisfy; if complete assortments are ordered for each case to be shipped, then breaking up these assortments to suit the whims of the packer will irritate; if a certain routing is specified, even if the map shows a crow's flight to be shorter, there is some practical reason for the route indicated. Good salesmanship may involve the demonstration of new and better ideas but, once an order is received, it is safe to assume that such instructions as the customer is careful enough to transmit are of sufficient importance for the exporter to carefully follow.

Balancing These Factors.—With such an array of problems, the packer has no easy task. The most difficult considerations to reconcile are safety and economy. In endeavoring to guarantee safety, weights may be increased and economy sacrificed. Excessive diligence in pursuit of economy may sacrifice safety. The task is to find a method at least equally as efficient and safe, and yet more economical; or more efficient and just as economical. Safety is the fixed factor and to it all others must bow. Freight rates and customs duties cannot be reduced to the detriment of security from damage or pilferage.

In studying this problem the exporter is not left entirely to his own resources. Although he may have expert packers in his employ scientific research is worthy of his attention. The Forest Products Laboratory which was established in 1910 by the United States Forest Service at Madison, Wisconsin, in coöperation with the University of Wisconsin, conducts investigations into, and tests of, containers of various types. The results of these experiments are available to American shippers. Extensive equipment is used to test the strength of packing devices and the properties of various kinds of wood. Methods of preservation and the holding power of all types of fasteners are studied and in addition, studies of specific commercial packing problems are made if the interested concern contributes partly to the expense incurred. Studies of shipping containers are also undertaken by the National Association of Wooden Box Manufacturers and the National Lumber Manufacturers' Association. These organizations maintain corps of packing experts to aid shippers in solving their problems. Similarly, manufacturers of containers maintain laboratories and several private commercial concerns are prepared to undertake specific studies of container methods for their clients.

MARKING EXPORT SHIPMENTS

The marking of shipments that enter into international commerce is more important and is deserving of closer attention than is sometimes realized. The hazards that affect the mode of packing exert an influence on the marking which, if blurred or obliterated, leads to endless trouble, and government requirements must also be met.

For practical reasons as well as because of legal necessity in some countries, all marks are preferably stenciled. Marks should be of such size as to be readily discernible so that packages may be quickly identified. The essential data that should appear on a packing case, bale, or any unit are (1) the consignee's name and/or mark; (2) the destination; and (3) routing instructions. This information is essential for the handling and delivery of the shipment. In this respect, the same principles are followed as in addressing a letter. Such data should appear in the most conspicuous place and should be duplicated on another side of the package to further guarantee delivery. The routing is especially important in case the destination is located at an interior point and, in such instances, the port of entry is also to be indicated.

As commonly practiced in foreign trade, the consignee's name, the destination and routing may be set forth in a conspicuous symbol, with or without further elaboration. Such "shipping marks" may consist of a rectangle, circle, triangle, diamond, etc., with the initials of the consignee above, within, aside and/or below; and the place of destination inscribed immediately beneath. The purposes of this method of indicating the consignee and destination are the brevity attained in marking packages and in preparing documents; the ease of identifying packages; and some degree of secrecy. Shipping marks are devised by the importer or buyer and when supplied they constitute part of the instructions and are to be literally followed.

Supplementary data, often required by foreign countries and advisable in any case, call for the following additional marks, (4) weights—gross, net, legal (as required by the particular country; (5) serial numbers of individual units when a number of packages is shipped; and (6) cubical measurements. These marks may appear in a less conspicuous position than the first group but are none the less advisable.

The only additional marking that should generally be placed on foreign shipments is an indication of the country of origin. This should be inscribed on the article and in connection with labels, tags and printed matter that may accompany it. Although not required by all foreign countries, it is well to place the legend "Made in U. S. A." on all articles that are exported. In this way the requirements, if existent, will be met, and possibly the American reputation for quality will be of some merchandising advantage. The United States Government, subject to specific exceptions, requires similar marking of imported shipments.

Discretionary marks, such as are commonly used in domestic shipments, may be employed with doubtful success in foreign trade. "This side up," "Fragile" and similar cautionary marks may or may not attract attention and result in care on the part of stevedores and longshoremen and if written in a foreign language the remote chance noted will probably vanish altogether. Moreover, as discussed in connection with pilferage, the identity of the merchandise should, if possible, be concealed, and marks conveying unnecessary information are to be avoided.

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CHAPTER XL

EXPORT TRAFFIC DEPARTMENTS AND OCEAN FREIGHT FORWARDERS

Frequent mention of shipping costs and services has necessarily been made because shipping is an essential part of the business of foreign trade. It plays a part in the balance of international payments, in the quotation of prices, in the making of market surveys, in the purchase and sale of import and export merchandise, in the adoption of foreign trade methods and channels of trade, in international competition, and in the routine or technique of foreign trade. It is not surprising, therefore, that the business organization of foreign trade should make provision for efficient traffic management.

The numerous and varied shipping facilities and services essential to the efficient conduct of foreign trade are mainly provided by railroad and other inland carriers, ocean carriers, and a wide range of port agencies, including steamship agents, ship brokers, freight forwarders and freight brokers, insurance companies or underwriters and brokers, warehouse concerns, public and private wharf and pier owners and operators, lighterage concerns, trucking or cartage firms, belt line and other terminal railroads, stevedores and longshoremen, customs brokers, federal, state and municipal supervisory and regulatory authorities, etc., and also other port agencies such as towage, pilotage, bunker fuel, ship chandlerage, and drydock concerns with whom exporters and importers do not come into contact unless they undertake the actual operation of steamship services. Some large industrial and mercantile concerns operate private ocean services, but most exporters and importers are dependent upon regular ocean line or ocean tramp services. Their problem is the utilization of the services of available inland and ocean carriers and other transportation agencies to their own best interest, and the active encouragement of shipping improvements.

STATUS AND LOCATION OF EXPORT TRAFFIC ORGANIZATIONS

The export traffic organization of a producer is influenced very largely by his trade methods and channels of distribution. So long as he exports exclusively through American middlemen it is not necessary to maintain an export traffic organization, because export commission houses and export merchants regularly handle the shipment after it arrives at the seaboard. It was noted in Chapter XIII that the business organizations of such concerns include traffic departments which issue instructions under which the producer or domestic dealer routes shipments to designated ocean ports where they are received by the export middleman or by an ocean freight forwarder employed by the middleman. Subsequent port and ocean shipping arrangements are made by the traffic department of the middleman, and the producer or domestic dealer is relieved from the necessity of maintaining a special export traffic organization.

When a manufacturer undertakes direct exporting he usually finds it necessary to make export shipping arrangements either through his own organization or through ocean freight forwarders, unless he is content to bill his shipments on through railroad export bills of lading. The extent of his shipping activities in particular transactions will depend upon the terms of the sales contract and the type of price quotation, but it will be recalled that f.o.b. vessel (named port), f.a.s. vessel (named port) and c.i.f. (named foreign port) transactions, which variously extend the exporters' shipping responsibilities beyond the inland carrier, have become of great importance in the export trade.[1] He will either require this industrial traffic department or other departments administering domestic shipping to assume the additional functions of export traffic management or he will create a special export traffic organization. Exporting manufacturers having a built-in export department[2] usually adopt the former plan, although a limited number of export shipping specialists may be employed within the industrial traffic department. Those maintaining a separate Export Department or an incorporated subsidiary export company more commonly create an export traffic department within their export business organization. In the latter case, the industrial traffic and export traffic departments of inland firms, variously subdivide their respective duties with regard to export shipments.

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[1] *See* Chapter XXXVI.

[2] *See* Chapter XII.

> The range of division extends everywhere from having the Export Department take charge at the production plant to having it begin its traffic functions at the port of export, and to having it depend upon the Industrial Traffic Department for various services in connection with its port and ocean transportation services. When the Export Department takes charge at the plant, the ordering of cars for export shipments is usually left to the Industrial Traffic Department so that car orders will not come to the carriers from two separate departments, and the Industrial Traffic Department may also be charged with the duty of packing and marking export packages under instructions received from the Export Department, and of loading them into the cars. Then, however, the entire responsibility of forwarding the cars to the seaboard, of transferring their contents to the wharves and making all arrangements with ocean carriers, marine insurance companies, etc., and with the United States and foreign governments incident to export shipping, may pass to the Export Department.
>
> When the industry's policy is to utilize the services of the Industrial Traffic Department to a greater degree, the Export Department may not receive control of its shipments until they arrive at the port of export. It may, of course, have engaged space in an ocean vessel, obtained a shipping permit and performed other traffic functions before the actual arrival of the shipment at the seaboard, but the work of routing the shipment to a port of export selected by the Export Traffic Manager, of tracing freight delayed on inland routes, of filing freight claims against inland carriers, and of performing all other traffic duties necessary to effect delivery to the Export Department at the port of export, may be assigned to the Industrial Traffic Department. There are exceptional instances of Export Departments having Export Traffic Managers who do not take complete charge of all phases of ocean shipping. The Export Department of a large eastern export manufacturer utilizes the services of the Steamship Division of the Industrial Traffic Department, which handles all domestic shipping by water, for the chartering of ocean vessels, the engagement of space from ocean lines, the checking of vessel demurrage and the placing of marine insurance.[3]

The manufacturer's export traffic organization, whether it is a part of the industrial traffic department or of the export department may be located either at the plant, where his main business organization is maintained, or at the principal port through which he ships. A built-in export department depending entirely upon the industrial traffic department for its export traffic management is apt to be located at the plant, although a shipping branch office may be established at the principal port. The tendency of large concerns having separate export departments is to locate them on the seaboard, the export department as a whole, including the export traffic manager, being located at the firm's principal port of export. Export shipments billed on a through railway export bill of lading are transferred to the ocean carrier by the delivering railroad, but as many firms prefer to ship to the seaboard on railroad bills of lading, there to rebill their ocean shipments, the inland exporter frequently needs port representation either through his own export traffic organization or through an ocean freight forwarder.

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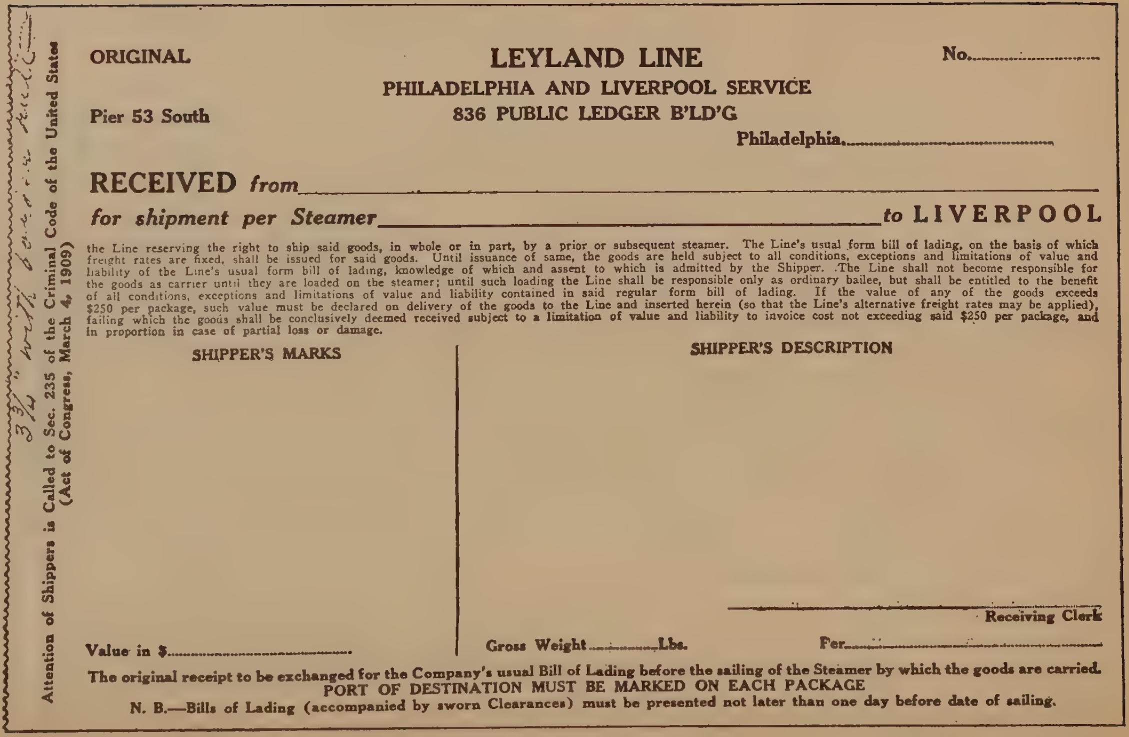
[3] G. G. Huebner and E. R. Johnson, *The Railroad Freight Service*, pp. 565-566.

The export traffic department of an industrial firm may be very small or it may comprise a staff of employees, depending largely upon the volume of its export traffic, the extent to which the industrial traffic department is required to perform export traffic work, the firm's dependence upon ocean freight forwarders, and its use of through export bills of lading. Its export traffic manager may personally take charge of various routine traffic duties, in addition to his general supervisory and broader constructive functions. His sole staff may consist of a clerk whose duty it is to prepare ocean bills of lading and assist him with routine export traffic work. In contrast with this, he may have a staff, including a forwarding or receiving clerk, to receive shipments as billed to the port of export by the industrial traffic department, shipping department, or whatever traffic and shipping organization is maintained by the firm at its plants, and to see to their transfer to the steamer; bill of lading clerks to prepare ocean bills of lading and in many instances to have them signed by the authorized officials or bill of lading clerks of the steamship line; a special clerk to maintain export shipping records, to prepare and file railroad claims, and to prepare claim data for transmission to the consignee abroad for use in the preparation and filing of freight claims against the ocean carrier; an insurance clerk to handle the marine insurance on ocean shipments; and a consular invoice clerk to prepare the consular invoices and certificates of origin required by certain foreign governments. The insurance clerk, however, is sometimes on the staff of the accounting department and the consular invoice clerk



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Attention of Shippers is Called to Sec. 235 of the Criminal Code of the United States
(Act of Congress, March 4, 1909)

ORIGINAL

LEYLAND LINE

PHILADELPHIA AND LIVERPOOL SERVICE

836 PUBLIC LEDGER B'LD'G

No...............................

Pier 53 South

Philadelphia..............................

RECEIVED ***from*** ______________________________

for shipment per Steamer ______________________________ ***to*** **LIVERPOOL**

the Line reserving the right to ship said goods, in whole or in part, by a prior or subsequent steamer. The Line's usual form bill of lading, on the basis of which freight rates are fixed, shall be issued for said goods. Until issuance of same, the goods are held subject to all conditions, exceptions and limitations of value and liability of the Line's usual form bill of lading, knowledge of which and assent to which is admitted by the Shipper. The Line shall not become responsible for the goods as carrier until they are loaded on the steamer; until such loading the Line shall be responsible only as ordinary bailee, but shall be entitled to the benefit of all conditions, exceptions and limitations of value and liability contained in said regular form bill of lading. If the value of any of the goods exceeds $250 per package, such value must be declared on delivery of the goods to the Line and inserted herein (so that the Line's alternative freight rates may be applied), failing which the goods shall be conclusively deemed received subject to a limitation of value and liability to invoice cost not exceeding said $250 per package, and in proportion in case of partial loss or damage.

SHIPPER'S MARKS	SHIPPER'S DESCRIPTION

______________________________ **Receiving Clerk**

Value in $..............................

Gross Weight..............**Lbs.**

Per..............................

The original receipt to be exchanged for the Company's usual Bill of Lading before the sailing of the Steamer by which the goods are carried.

PORT OF DESTINATION MUST BE MARKED ON EACH PACKAGE

N. B.—Bills of Lading (accompanied by sworn Clearances) must be presented not later than one day before date of sailing.

FORM VII. DOCK RECEIPT

is usually included in that department instead of on the staff of the export traffic manager. An even larger export traffic organization may include an export traffic manager, an assistant export traffic manager, a chief clerk, and an assistant, a number of general or assigned clerks and various defined sections such as booking, rate, bill of lading, lighterage, car record, statistics, and insurance divisions.[4] Such an export traffic organization is, however, more typical of a large export commission house or export merchant than of a manufacturing exporter.

FUNCTIONS OF EXPORT TRAFFIC MANAGEMENT

The routine functions of export traffic management, some of which will be discussed more fully in subsequent chapters, constitute essential parts of the technique of exporting. They may be summarized as follows:

1. The exported wares should be packed so as to meet all of the requirements of foreign trade as nearly as possible,[5] and this is in part a function of traffic management. The export traffic department may have direct charge of export packing or it may supervise packing, but it more commonly provides essential data for use in the determination of export packing instructions and takes an active part in determining packing policies.

2. Export traffic management includes the selection of the port of export and the routing of inland shipments to this port.[6]

3. It includes the determination of the class of ocean service to be utilized.

4. When an ocean vessel is to be chartered it becomes necessary to charter a vessel suitable for the firm's purpose on the basis of a "charter party" of the type that will best serve its needs. If the charter negotiated requires the charterer to load the vessel's cargo it becomes necessary to perfect definite loading arrangements, and as a net voyage charter rate does not include unloading costs the charterer may be interested in unloading arrangements at the foreign port of discharge.

5. When exports are to be shipped in the regular line service,

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[4] *See* B. O. Hough, *Foreign Trade Traffic Management*, LaSalle Extension University, Manual 39, Chapter II.
[5] *See* Chapter XXXIX.
[6] *See* Chapter XLI.

the selection of a particular line is an important function of export traffic management.

6. Shipments must then be booked for a vessel of the selected line.

7. In case of delay in arrival at the port of export, they must be traced, and in order to assure arrival in time for movement on the vessel for which they are booked, an effort may be made to expedite their movement to the port of export from the inland plant.

8. Unless billed on a through export bill of lading, arrangements must be made for the receipt of the exported wares at the port of export and their transfer to the steamer or to the pier. Upon delivery, dock receipts are obtained from the Wharf Department of the steamship line.

9. Ocean bills of lading must be prepared for signature by the ocean carrier's authorized bill of lading clerks, and freight must be prepaid when required. Other export documents, too, must be prepared or obtained—the shipper's export declaration and sometimes government inspection certificates and consular invoices. These documents are frequently provided elsewhere than in the export traffic organization, but those required by the United States Government are needed when the export shipment is cleared at the customs house.

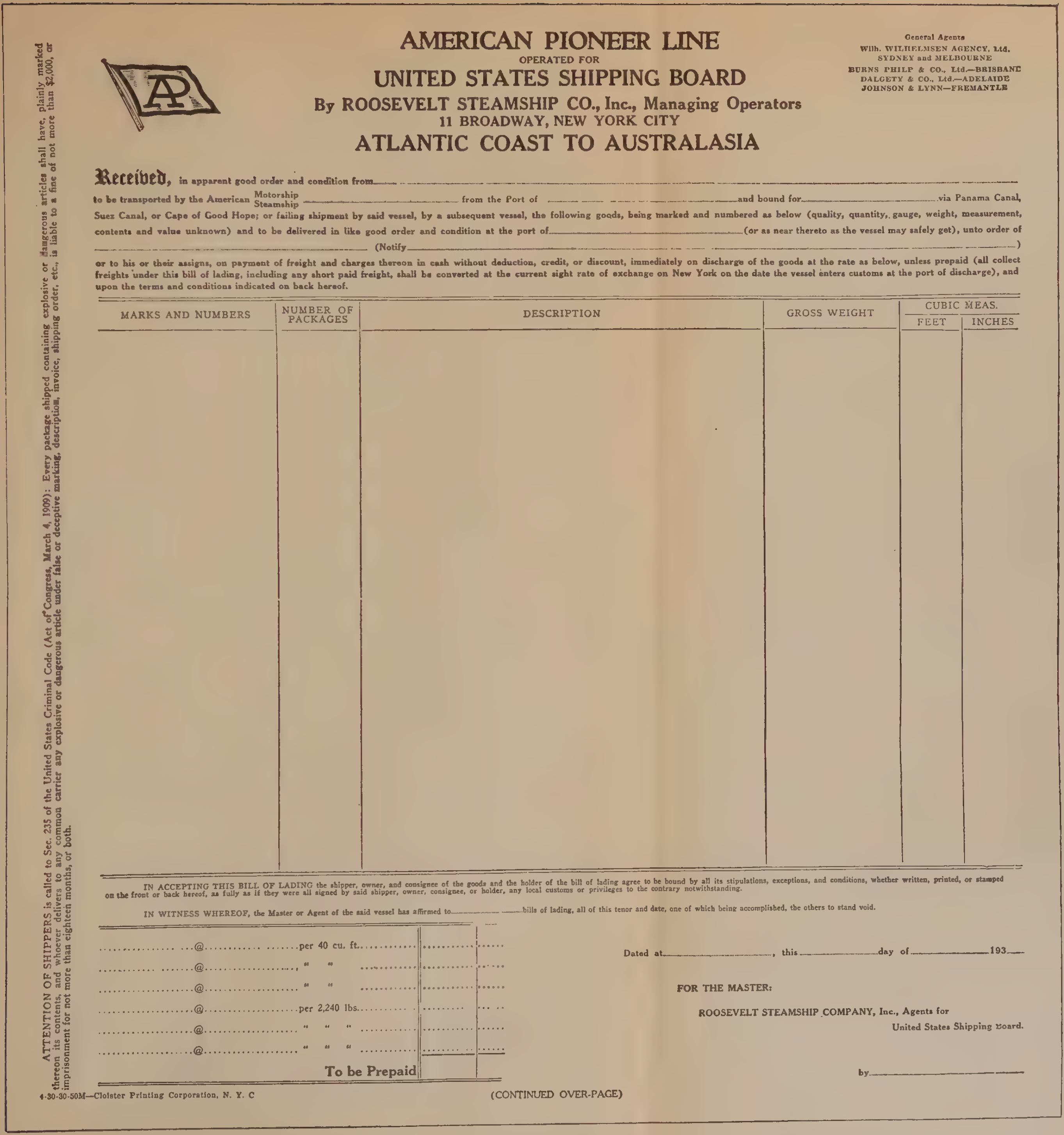
10. The necessary amount of marine insurance must be negotiated.

11. Export traffic records must be maintained.

12. Claims are filed against rail or ocean carriers in case of loss or damage for which they may be liable, or claim data is prepared for the use of interested parties abroad who wish to file claims against ocean carriers.

It will be recalled that all of these routine functions are not in every instance performed by the shipper's export traffic department. Some of them may variously be performed elsewhere in his business organization; he may assign export traffic management to his industrial traffic department; he may depend upon ocean freight forwarders at the port of export; and the sales contract and price quotation may subdivide export traffic work between the exporter and his foreign customers.

Effective export traffic management, however, has proceeded beyond the immediate shipping functions referred to above. It



ATTENTION OF SHIPPERS is called to Sec. 235 of the United States Criminal Code (Act of Congress, March 4, 1909): Every package shipped containing explosive or dangerous articles shall have, plainly marked thereon its contents, and whoever delivers to any common carrier any explosive or dangerous article under false or deceptive marking, description, invoice, shipping order, etc., is liable to a fine of not more than $2,000, or imprisonment for not more than eighteen months, or both.

AMERICAN PIONEER LINE
OPERATED FOR
UNITED STATES SHIPPING BOARD
By ROOSEVELT STEAMSHIP CO., Inc., Managing Operators
11 BROADWAY, NEW YORK CITY
ATLANTIC COAST TO AUSTRALASIA

General Agents
Wilh. WILHELMSEN AGENCY, Ltd.
SYDNEY and MELBOURNE
BURNS PHILP & CO., Ltd.—BRISBANE
DALGETY & CO., Ltd.—ADELAIDE
JOHNSON & LYNN—FREMANTLE

Received, in apparent good order and condition from____________________ to be transported by the American Motorship Steamship ____________ from the Port of ____________ and bound for____________ via Panama Canal, Suez Canal, or Cape of Good Hope; or failing shipment by said vessel, by a subsequent vessel, the following goods, being marked and numbered as below (quality, quantity, gauge, weight, measurement, contents and value unknown) and to be delivered in like good order and condition at the port of____________ (or as near thereto as the vessel may safely get), unto order of ____________ (Notify____________) or to his or their assigns, on payment of freight and charges thereon in cash without deduction, credit, or discount, immediately on discharge of the goods at the rate as below, unless prepaid (all collect freights under this bill of lading, including any short paid freight, shall be converted at the current sight rate of exchange on New York on the date the vessel enters customs at the port of discharge), and upon the terms and conditions indicated on back hereof.

MARKS AND NUMBERS	NUMBER OF PACKAGES	DESCRIPTION	GROSS WEIGHT	CUBIC MEAS.	
				FEET	INCHES

IN ACCEPTING THIS BILL OF LADING the shipper, owner, and consignee of the goods and the holder of the bill of lading agree to be bound by all its stipulations, exceptions, and conditions, whether written, printed, or stamped on the front or back hereof, as fully as if they were all signed by said shipper, owner, consignee, or holder, any local customs or privileges to the contrary notwithstanding.

IN WITNESS WHEREOF, the Master or Agent of the said vessel has affirmed to____________ bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void.

..................@..................per 40 cu. ft..................
..................@.................., " " ....
..................@.................. " " ....
..................@..................per 2,240 lbs..................
..................@.................. " " " ....
..................@.................. " " " ....

To be Prepaid

Dated at____________, this____________day of____________193___

FOR THE MASTER:

ROOSEVELT STEAMSHIP COMPANY, Inc., Agents for
United States Shipping Board.

by____________

4-30-30-50M—Cloister Printing Corporation, N. Y. C

(CONTINUED OVER-PAGE)

FORM VIII. OCEAN BILL OF LADING

(Continued from Over-Page)

The vessel shall have liberty to go on drydock with or without cargo on board, whether for causes existing or known before or at the beginning of the voyage or not; to call at any port or ports in or out of or beyond the customary or advertised route for the purpose of bunkering, loading, transshipping (forwards or backwards), or discharging cargo, for this, a prior, or a subsequent voyage; to transship the goods to destination by any other steamer or vessels and or carrier or carriers; to sail with or without pilots, to tow and to be towed, and to assist vessels in all places and in all situations and to take any measures deemed advisable by the Master for the purpose of saving life and/or property, and to convey goods in craft and/or lighters to and from the vessel at the risk of the owner of the goods. Neither the vessel, her owner, nor agent shall be liable for loss or damage arising from: Act of God; perils, dangers, and accidents of the sea or other navigable waters; act, default, or omission of the administration of the Suez Canal or Panama Canal, or interruption of traffic through either of said canals from any cause whatsoever; fire, from any cause or wheresoever occurring; barratry of master or crew; enemies, pirates, robbers or thieves no matter where occurring and whether or not they be in the privity of the ship or of her owner; arrest or restraint of princes, rulers, or people, or seizure under legal process; fumigation under governmental orders; riots, strikes, lockouts, or stoppage of labor; saving or attempting to save life or property at sea; inherent vice, nature, defect, or change of character of the goods; insufficiency or absence of marks, numbers, address or description; explosives, bursting of boilers, breakage of shafts, or any latent defects in hull, machinery, or appurtenances, or unseaworthiness of the vessel, whether existing at time of shipment or at the beginning of the voyage, provided the owner shall have exercised due diligence to make the vessel seaworthy, properly manned, equipped, and supplied. Neither the vessel, her owner, nor agent shall be liable for loss or damage resulting from: Heat, frost, decay, putrefaction, rust, sweat, breakage, leakage, smell, taint, or evaporation from any other goods, drainage, ullage, pilferage, vermin, or by explosion of any of the goods, whether shipped with or without disclosure of their nature; nor for risk of craft, hulk or transshipment; nor for any loss or damage caused by the prolongation of the voyage.

General average shall be adjusted and settled in New York and shall be payable according to York-Antwerp Rules, 1924, 1 to 15 inclusive, and Rules 17 to 22 inclusive, and as to matters not therein provided for, according to the laws and usages of the port of New York. Average bond must bo furnished, with such security as may be required by the master or vessel's agent, before delivery of the goods. If the owner shall have exercised due diligence to make the vessel in all respects seaworthy and to have her properly manned, equipped, and supplied, it is hereby agreed that in case of danger, damage, or disaster resulting from faults or errors in navigation, or in the management of the vessel, or from any latent defect in the vessel, her machinery or appurtenances, or from unseaworthiness, whether existing at the time of shipment, or at the beginning of the voyage (provided the latent defect, or the unseaworthiness was not discoverable by the exercise of due diligence), the shippers, consignees, or owners of the cargo shall nevertheless pay salvage and any special charges incurred in respect of the cargo, and shall contribute with the shipowner in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred for the common benefit or to relieve the adventure from any common peril, all with the same force and effect, and to the same extent, as if such danger, damage or disaster had not resulted from, or been occasioned by, faults or errors in navigation, or in the management of the vessel, or any latent defect or unseaworthiness.

The vessel's responsibility in all cases ceases when the goods leave the vessel's tackles or deck, any custom of the port to the contrary notwithstanding. A tally shall be kept on behalf of the receivers and the vessel at the vessel's rail, and the goods must be signed for as they are landed. Where goods are landed or put in craft in the absence of a tally by the receiver (whether by night or by day) the vessel's tally books shall be conclusive evidence of the number of packages discharged and of their condition. Lighterage, if any, to be always at the risk and expense of the receiver or owner of the goods.

1. This shipment is subject to all the terms and provisions of, and all the exemptions from liability contained in, the act of Congress of the United States, approved on the 13th day of February, 1893, and entitled "An Act Relating to the Navigation of Vessels, etc." This shipment is subject to the provisions of sections 4281-4286, inclusive, of the Revised Statutes of the United States.

2. The freight on the cargo carried hereunder is regulated in consideration of all the terms of this contract and is based partly on the value of the cargo. Unless a greater value shall be declared at the time of shipment, and bills of lading signed with declaration of the nature and value of the goods appearing thereon and extra freight in respect of same agreed upon and paid, neither the carrier nor the vessel shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding $1,000 per package or unit, or the equivalent of that sum in other currency. Any partial loss or damage for which the vessel or owner may be liable shall be adjusted pro rata on the value above indicated, but the basis of adjustment will not in any event be higher than the invoice value of the goods.

3. The vessel shall have a lien on the goods for all freight and charges of whatsoever nature, and also for all fines or damages which the vessel or cargo may incur or suffer by reason of the illegal, incorrect or insufficient marking, numbering or addressing of packages or description of their contents, or failure of shipper to prepare bills of lading in accordance with regulations of port, customs or consular authorities, or failure to provide manifests, consular, board of health or other certificates required to accompany the goods. If on a sale of the goods the proceeds fail to cover all sums due the carrier in respect of said goods, the carrier shall be entitled to recover the difference from the shipper and/or consignee.

4. If vessel be prevented from reaching her destination by quarantine, shallow water, blockade, conditions of weather, surf, ice, war or civil disturbances (or in the judgment of the Master it would be unsafe or dangerous for any such reason for her to proceed to or near to port of destination), or if in the judgment of the Master it shall not be reasonably practicable to discharge the goods at destination on account of congestion, strike whether by shipowner's employees or otherwise, labor difficulties, or otherwise, occurring before or after receipt of the goods by the carrier, vessel shall have liberty, without proceeding to or near or after entering port of destination, to proceed to and discharge the goods at a nearby port in the judgment of the Master available, safe and free from danger and free from congestion, strike, labor difficulties and otherwise. Notice of discharge of the goods shall be dispatched to consignee, if named herein, otherwise to the shipper, and such discharge shall be deemed a complete delivery under this contract and full freight shall be deemed earned.

5. The vessel may commence discharging immediately on arrival and discharge continuously, any custom of the port to the contrary notwithstanding; the collector of the port being authorized to grant a general order for discharge immediately on arrival, and if the goods be not taken from alongside by the consignee directly they come to hand in discharging the vessel, the master or vessel's agent to be at liberty to enter and land the goods, or put them into craft, or store at the risk and expense of the owner of the goods, dispatching notice thereof to the consignee, if named herein (at destination named), and otherwise to the shipper, when the goods shall be deemed delivered, and the vessel's responsibility ended.

6. Full freight is payable on damaged or unsound goods, but no freight is due on any increase in bulk or weight caused by the absorption of water during the voyage. Freight is payable on the weight or measurement stated herein, or at carrier's option on the landed weight or measurement. The cost of weighing or measuring at port of discharge shall be paid by the shipper and/or consignee and shall be a charge on the goods. Freight prepaid will not be returned, goods and/or vessel lost or not lost.

7. Goods awaiting shipment or delivery are at shipper's risk of loss or damage not happening through the fault or negligence of the owner, master, agent, or manager of the vessel, any custom of the port to the contrary notwithstanding.

8. This bill of lading, duly indorsed, shall be surrendered to the vessel's agent in exchange for delivery order or the goods.

9. Master Porterage of the delivery of the cargo is to be done by the agents of the vessel; the expenses thereof together with tonnage and shed dues, canal tolls, and charges are to be paid by the receivers of the cargo.

10. Unless caused by the vessel's negligence in handling, loading, stowing and/or discharging goods, vessel shall not be liable for (a) Damage to metal slabs, bars, ingots, rods, hoops, plates, etc., nor for loss of broken pieces of same; (b) Damage to fragile goods or goods not properly packed; (c) Discoloration, splits, shakes or breakage of woodenware, staves, lumber or logs; (d) Broken bundles or number of pieces in bundles. Unless required as a result of vessel's negligence, repacking, recoopering, and reconditioning shall be done at the expense of the goods.

11. Notice of loss, damage, or delay must be given in writing to the vessel's agent within thirty (30) days after the removal of the goods from the custody of the vessel, or, in case of failure to make delivery within thirty (30) days after the goods should have been delivered: Provided, That notice of apparent loss or damage must be given before the goods are removed from the custody of the vessel and proper notation made on the receipt given to the vessel for the goods shall constitute the notice herein required. Written claim for loss, damage, or delay must be filed with the vessel's agent within six (6) months after giving such written notice. Unless notice is given and claim filed as above provided, neither the vessel, her owner, nor agent shall be liable. No suit to recover for loss, damage, delay, or failure to make delivery shall be maintained unless instituted within one year after the giving of written notice as provided herein.

12. If within goods do not satisfy all requirements of any authorities for importation into the country of destination, shipper and/or consignee will indemnify the vessel, her owner, and/or agent, for any expense for detention of the vessel arising in consequence thereof. If goods are not permitted to be landed at destination, they may be carried to any other port or returned to the port of loading and there discharged at the risk and expense (including freight and/or other charges for carriage beyond port of destination and/or back freight) of the goods.

13. Transshipment of cargo for ports not included within the vessel's itinerary is to be at the expense of the vessel and subject to all conditions, stipulations, and exceptions in bill of lading or freight note in use by the carrier or carriers completing the transit, including the risk of carrying on deck if the requirements of the on-carrying steamer or conveyance does not permit carrying under deck. Customs formalities and detentions to be at the risk and expense of the goods, consignees or shippers thereof. Neither the vessel, her owner, nor agent shall be deemed to be the agent of such carrier or carriers. If, upon arrival at port of transshipment, there shall be no carrier ready to receive the goods, said goods may be discharged into lighters or stored under suitable, available protection, at the risk and expense of the goods. Neither the vessel, her owner, nor agent, shall be liable for loss, damage, or delay occurring after the discharge of said goods.

14. The shipper shall be liable for any loss or damage to the carrier, its vessels or property, or others, caused by any inflammable, explosive, noxious or dangerous goods or articles shipped without full disclosure of their nature at the time of loading and entering hereon, whether shipper be principal or agent or aware of the nature of the goods or articles or not, and such goods or articles may be thrown overboard or destroyed at any time without compensation. Goods or articles of such character may be carried or forwarded on deck as well as any other whose nature or bulk requires them to be so carried, and the same shall be at the risk of the owner thereof as to all loss or damage thereto occurring while so situated not shown due to carrier's fault. Extra charges or expenses, if any, for discharging, lightering, handling or caring for or otherwise occasioned by goods or articles of such character or those so declared or considered by the civil or military authorities of any port shall be borne by the shipper, consignee and/or assigns and constitute a lien on the goods. Goods carried on deck are carried solely at the shipper's risk, freight for deck cargo or perishable goods always to be prepaid. The master is entitled to throw overboard dangerous goods or articles, whether shipped with full disclosure of their nature or not, if leaking or otherwise endangering life or property, without compensation. Any expense attending the discharge of cartridges and similar goods from vessel and landing according to Government rules and regulations to be borne by the consignees of the same.

15. If any bagged or baled goods are landed slack or torn, the receiver and/or consignee shall accept such proportion of the sweepings as may be allotted by the vessel's agent, and the same shall be deemed full settlement of any claims for loss in weight. Vessel not responsible for loss of weight in bags, or bales torn, mended, or with sample holes.

16. Single packages exceeding two tons in weight are subject to extra charges for loading, handling, transshipping or discharging. Shipper, owner, and/or consignee shall be liable for loss or damage resulting to the vessel, cargo, wharf, lighters, cranes, and/or hoisting tackle from incorrect weight having been declared.

17. All stamps, duties, fines and charges imposed by any Government on goods or imposed on the vessel by reason of having such goods on board shall be for account of the goods.

18. The vessel and her owners shall be under no liability for failure to notify the consignees or any other party of the arrival of the goods.

19. Carrier does not undertake to carry perishables in refrigerated, cooled, heated, or specially ventilated compartments, unless specially contracted for herein. Perishables are accepted at risk of owner thereof, and neither the vessel nor her owner shall be liable for any loss of or damage to such goods unless caused by negligence from which the vessel and her owner are not relieved by the provisions of the Act of Congress of February 13, 1893, known as the Harter Act.

20. In case of option, granted to the shipper, between two ports of discharge, the option to be determined and immediate notice given in writing on arrival of vessel at the first port.

21. The freight payable as above has been calculated and based upon a description of the goods declared by the shippers to the carrier. The shippers warrant the correctness of such description. If such description shall prove to be untrue or incomplete, the shippers and/or consignee shall be liable for and shall pay to the vessel, as and by way of liquidated and ascertained damages and not as a penalty, a sum equal to double the freight which would have been charged if the goods had been correctly described less the freight actually paid.

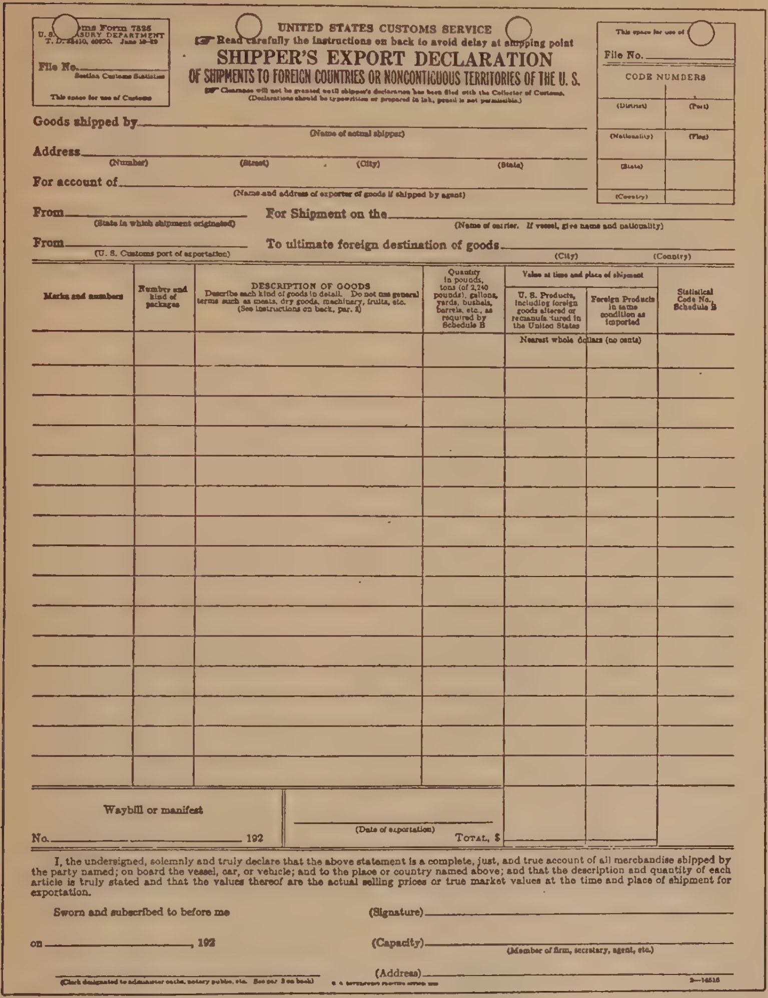
22. Specie will not be shipped or landed by the carrier; it must be put on board by the shippers, and will only be delivered on board on presentation of the bills of lading properly endorsed; it may be carried on at consignees' risk if delivery is not taken during the vessel's stay in port, and in every case the liability of the carriers shall cease when the specie leaves the vessel's deck.

23. Description of the condition of cotton does not relate to the insufficiency of or torn condition of the covering, nor to any damage resulting therefrom; carrier shall not be responsible for damage of such nature.

24. The Carrier may, notwithstanding anything contained in Clause 5 hereof or any custom of the port to the contrary, appoint any person, firm or Harbor Authority to land, receive, and/or handle on wharf or into trucks and/or convey into shed and sort, stack on wharf or in shed, and deliver the goods to the consignees who shall pay to such person, firm, or Harbor Authority the current rate for all work performed in landing, and/or receiving, and/or handling the goods on wharf or into trucks and/or conveying into shed and/or sorting or stacking the goods on wharf or in shed and indemnify Carrier from all risks and expenses incurred.

25. Any dues on cargo at Fremantle to be paid by consignees of the goods.

implies close coöperation with other departments of the firm's export organization and keen interest in procuring shipping improvements. An export traffic department can render valuable services to other departments of the firm's export organization. The sales department depends upon it for prompt and accurate information relative to freight rates and other shipping



U. S. ms Form 7525
ASURY DEPARTMENT
T. D. 40410, 40630. June 10–29

File No. ________
Section Customs Statistics

This space for use of Customs

UNITED STATES CUSTOMS SERVICE

☞ Read carefully the instructions on back to avoid delay at shipping point

SHIPPER'S EXPORT DECLARATION

OF SHIPMENTS TO FOREIGN COUNTRIES OR NONCONTIGUOUS TERRITORIES OF THE U. S.

☞ Clearance will not be granted until shipper's declaration has been filed with the Collector of Customs.
(Declarations should be typewritten or prepared in ink, pencil is not permissible.)

This space for use of

File No. ________

CODE NUMBERS	
(District)	(Port)
(Nationality)	(Flag)
(State)	
(Country)	

Goods shipped by ________ (Name of actual shipper)

Address ________ (Number) (Street) (City) (State)

For account of ________ (Name and address of exporter of goods if shipped by agent)

From ________ (State in which shipment originated) For Shipment on the ________ (Name of carrier. If vessel, give name and nationality)

From ________ (U. S. Customs port of exportation) To ultimate foreign destination of goods ________ (City) (Country)

Marks and numbers	Number and kind of packages	DESCRIPTION OF GOODS Describe each kind of goods in detail. Do not use general terms such as meats, dry goods, machinery, fruits, etc. (See instructions on back, par. 2)	Quantity in pounds, tons (of 2,240 pounds), gallons, yards, bushels, barrels, etc., as required by Schedule B	Value at time and place of shipment		Statistical Code No., Schedule B
				U. S. Products, including foreign goods altered or remanufactured in the United States	Foreign Products in same condition as imported	
				Nearest whole dollars (no cents)		

Waybill or manifest

No. ________ 192

________ (Date of exportation) TOTAL, $

I, the undersigned, solemnly and truly declare that the above statement is a complete, just, and true account of all merchandise shipped by the party named; on board the vessel, car, or vehicle; and to the place or country named above; and that the description and quantity of each article is truly stated and that the values thereof are the actual selling prices or true market values at the time and place of shipment for exportation.

Sworn and subscribed to before me

on ________, 192

(Signature) ________

(Capacity) ________ (Member of firm, secretary, agent, etc.)

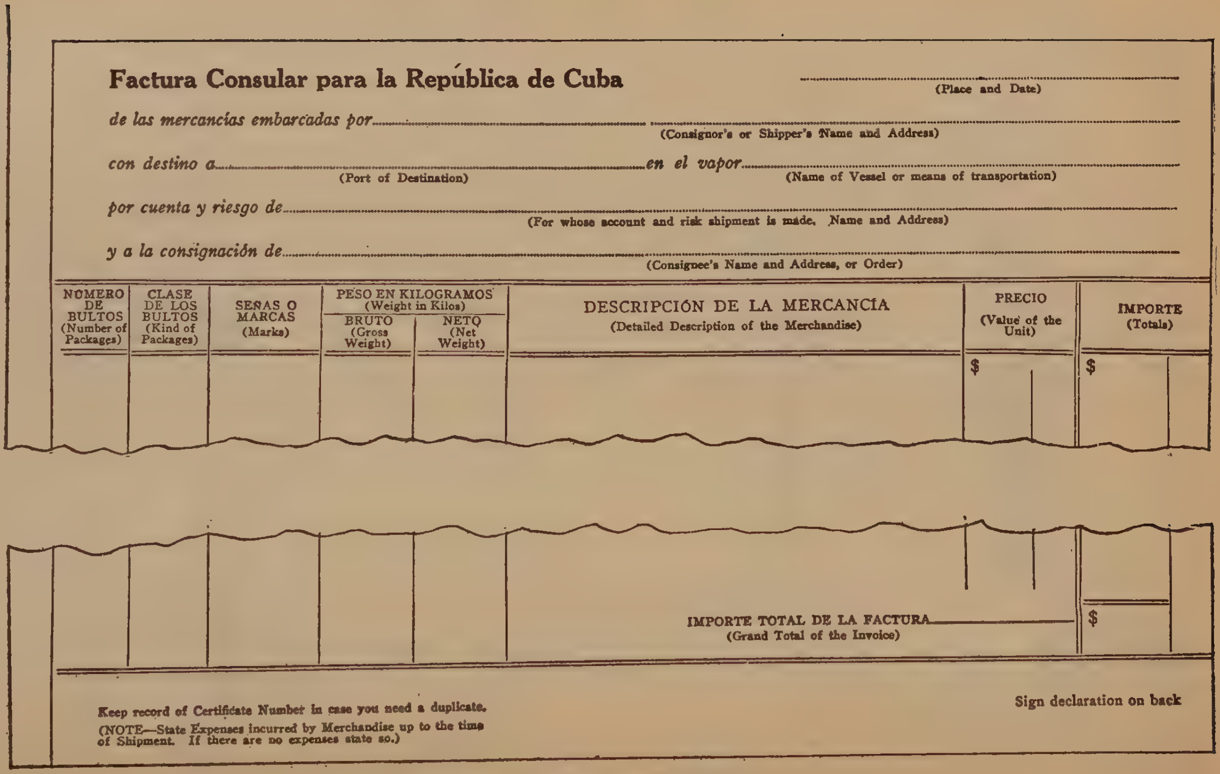
(Address) ________

________ (Clerk designated to administer oaths, notary public, etc. See par. 3 on back)

[illegible]

2—14516

FORM IX. SHIPPER'S EXPORT DECLARATION



Factura Consular para la República de Cuba .... (Place and Date)

de las mercancías embarcadas por.. (Consignor's or Shipper's Name and Address)

con destino a.. (Port of Destination) *en el vapor*.. (Name of Vessel or means of transportation)

por cuenta y riesgo de.. (For whose account and risk shipment is made, Name and Address)

y a la consignación de.. (Consignee's Name and Address, or Order)

NUMERO DE BULTOS (Number of Packages)	CLASE DE LOS BULTOS (Kind of Packages)	SEÑAS O MARCAS (Marks)	PESO EN KILOGRAMOS (Weight in Kilos)		DESCRIPCIÓN DE LA MERCANCÍA (Detailed Description of the Merchandise)	PRECIO (Value of the Unit)	IMPORTE (Totals)
			BRUTO (Gross Weight)	NETO (Net Weight)			
						$	$
					IMPORTE TOTAL DE LA FACTURA (Grand Total of the Invoice)		$

Keep record of Certificate Number in case you need a duplicate.
(NOTE—State Expenses incurred by Merchandise up to the time of Shipment. If there are no expenses state so.)

Sign declaration on back

FORM X. CONSULAR INVOICE, CUBA

charges and expenses, for it cannot quote the export prices[7] most commonly requested in foreign trade without a knowledge of the shipping costs which variously are included or excluded. It is also interested in shipping costs and in steamship services when making market surveys, and it requires a knowledge of these items in the effective performance of its selling function. It is obviously interested in ocean sailing dates, and although its sales contracts do not as a rule promise delivery abroad by a specified date, the sales department should be informed of the probable time when delivery may be expected. The selling or advertising departments are similarly provided with shipping cost and service data when advertising or trade promotion campaigns are under consideration. The credit, finance, or other department in the firm's export organization having charge of financing exports and of credit extension, depends upon the export traffic department to follow implicitly all instructions as to freight payments, commodity descriptions, marks and numbers, condition of packages, etc., in the preparation of bills of lading. The plant shipping organization is dependent upon the firm's export traffic organization for billing instructions, and for information as to sailing dates and delays in arrival at the port of export, and, as was stated previously, the traffic department may be a factor in determining export packing instructions and sometimes it supervises the packing of export shipments at the firm's plants. The accounting department, where invoices and sometimes other export documents are prepared, where company records are kept, and where marine insurance is in some instances negotiated, must be informed as to freight and other charges and as to shipments that have gone forward and those arriving at the port too late for shipment on the intended steamship.

Export traffic management also implies an interest in constructive proposals that may add substantially to the savings and profits resulting from the efficient performance of routine shipping functions and effective coöperation with other departments of the firm's export organization. The export traffic manager or the industrial traffic manager, in case he has charge of export traffic, may materially aid his firm in bringing about improved ocean steamship services, additional ocean lines at favorably located ports, improved port facilities and services, and favorable adjustments of ocean rates, railroad rates applicable to export shipments, carriers' rules and practices and port charges. He may also interest his firm in regulatory proceedings before the Shipping Board and Interstate Commerce Commission, and in proposed railroad, ocean shipping, and merchant marine legislation.

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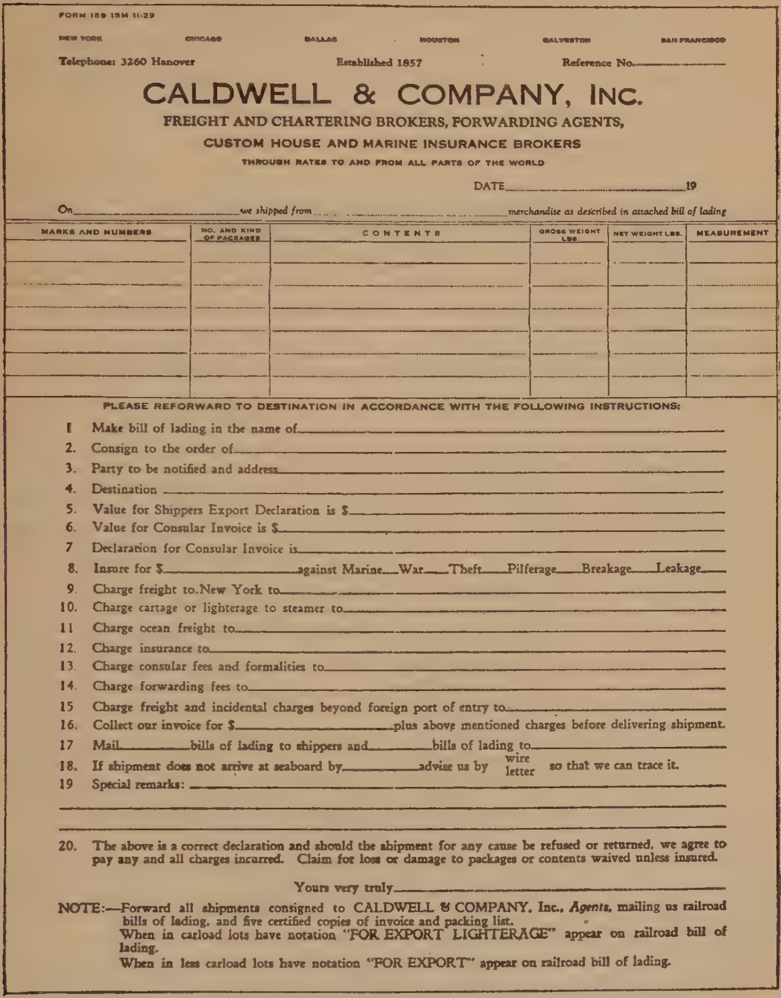
[7] *See* Chapter XXXVI.

OCEAN FREIGHT FORWARDING

In forwarding overseas shipments the export traffic organization of an American exporter, to whatever extent may be deemed desirable, utilizes the services of ocean freight forwarders and other agencies that have become part and parcel of export shipping. Exporters maintaining shipping offices at the seaboard are equipped to make direct arrangements with ocean carriers, to prepare and execute the necessary shipping papers and to arrange for the transfer of cargoes from inland to ocean carriers at the port or ports at which they are located. At other ports, however, they are dependent upon ocean freight forwarders unless their shipments are billed on railroad export bills of lading. Firms having no port shipping offices, and preferring to rebill their shipments at the seaboard, moreover, are quite generally dependent upon the services of forwarders.

The ocean freight forwarding business is to be distinguished from ocean freight brokerage even when both services are performed by a forwarding firm. Many freight brokers located at inland points and at ocean ports solicit freight for ocean carriers and book cargoes for them. They act as agents for ocean carriers and receive compensation from them in the form of a small commission. This cargo booking service is of direct value to the exporter as well as to the ocean carrier and embodies the important related services of quoting ocean rates and providing exporters with needed information concerning rates, sailings, shipping regulations, and practices. Ocean freight forwarders, when performing a freight brokerage service, are also serving as carriers' agents and normally receive a commission from them, but these firms, in addition, perform specific services for shippers. As forwarders they act as shippers' agents and receive compensation from them.

A part of the traffic handled by ocean freight forwarders consists of small parcels or package freight, the direct billing of which is handicapped by the high minimum freight charge usually required in ocean bills of lading. By combining small packages into a single large shipment, ocean freight forwarders perform an international express business. Their charges to



FORM 169 15M 11-29

NEW YORK CHICAGO DALLAS HOUSTON GALVESTON SAN FRANCISCO

Telephone: 3260 Hanover Established 1857 Reference No.________

CALDWELL & COMPANY, INC.

FREIGHT AND CHARTERING BROKERS, FORWARDING AGENTS,

CUSTOM HOUSE AND MARINE INSURANCE BROKERS

THROUGH RATES TO AND FROM ALL PARTS OF THE WORLD

DATE________19

On________*we shipped from*________*merchandise as described in attached bill of lading*

MARKS AND NUMBERS	NO. AND KIND OF PACKAGES	CONTENTS	GROSS WEIGHT LBS.	NET WEIGHT LBS.	MEASUREMENT

PLEASE REFORWARD TO DESTINATION IN ACCORDANCE WITH THE FOLLOWING INSTRUCTIONS:

1 Make bill of lading in the name of________

2. Consign to the order of________

3. Party to be notified and address________

4. Destination________

5. Value for Shippers Export Declaration is $________

6. Value for Consular Invoice is $________

7 Declaration for Consular Invoice is________

8. Insure for $________against Marine____War____Theft____Pilferage____Breakage____Leakage____

9. Charge freight to New York to________

10. Charge cartage or lighterage to steamer to________

11 Charge ocean freight to________

12. Charge insurance to________

13. Charge consular fees and formalities to________

14. Charge forwarding fees to________

15 Charge freight and incidental charges beyond foreign port of entry to________

16. Collect our invoice for $________plus above mentioned charges before delivering shipment.

17 Mail________bills of lading to shippers and________bills of lading to________

18. If shipment does not arrive at seaboard by________advise us by wire letter so that we can trace it.

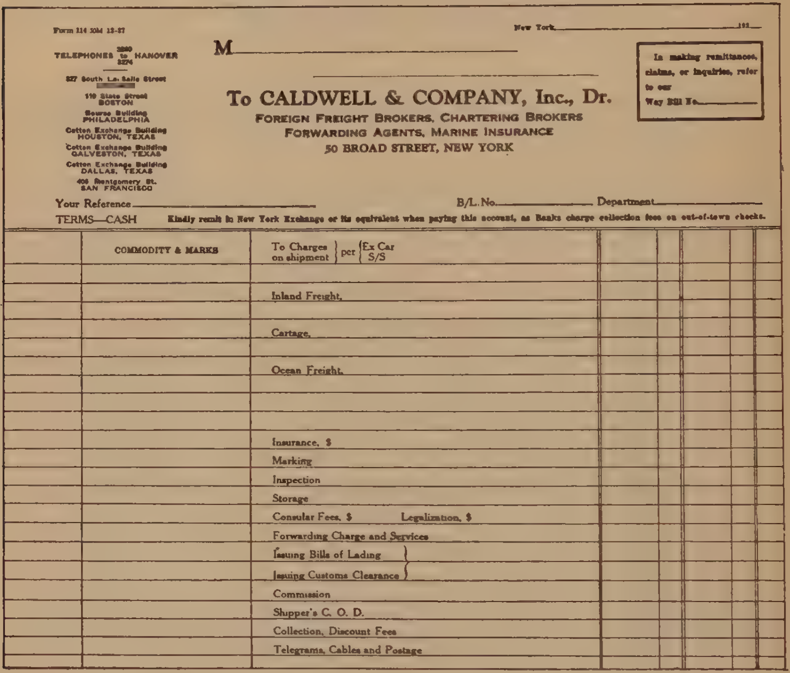
19 Special remarks:________

20. The above is a correct declaration and should the shipment for any cause be refused or returned, we agree to pay any and all charges incurred. Claim for loss or damage to packages or contents waived unless insured.

Yours very truly________

NOTE:—Forward all shipments consigned to CALDWELL & COMPANY, Inc., *Agents*, mailing us railroad bills of lading, and five certified copies of invoice and packing list.
When in carload lots have notation "FOR EXPORT LIGHTERAGE" appear on railroad bill of lading.
When in less carload lots have notation "FOR EXPORT" appear on railroad bill of lading.

FORM XI. FREIGHT FORWARDER'S INSTRUCTIONS shippers on individual small parcels are less than the minimum bill of lading charge of the ocean carriers but make it possible for them to pay the ocean freight due on the combined shipment and make a profit on their parcel or express business. They issue private freight forwarders' bills of lading or receipts to the shippers of parcels and in turn rebill the consolidated shipments on the ocean bills of lading of the regular steamship lines. The domestic express receipt issued by the Railway Express Agency, Incorporated, also contains special provisions applicable to overseas shipments.



Form 114 30M 12-27

New York ______________ 192__

TELEPHONES 3260 to 3274 HANOVER

327 South La Salle Street
[illegible]

110 State Street
BOSTON

Bourse Building
PHILADELPHIA

Cotton Exchange Building
HOUSTON, TEXAS

Cotton Exchange Building
GALVESTON, TEXAS

Cotton Exchange Building
DALLAS, TEXAS

406 Montgomery St.
SAN FRANCISCO

M______________________

____

To CALDWELL & COMPANY, Inc., Dr.

FOREIGN FREIGHT BROKERS, CHARTERING BROKERS
FORWARDING AGENTS, MARINE INSURANCE
50 BROAD STREET, NEW YORK

In making remittances, claims, or inquiries, refer to our
Way Bill No.______________

Your Reference______________ B/L No.______________ Department______________

TERMS—CASH Kindly remit in New York Exchange or its equivalent when paying this account, as Banks charge collection fees on out-of-town checks.

	COMMODITY & MARKS	To Charges on shipment per Ex Car / S/S					
		Inland Freight,					
		Cartage,					
		Ocean Freight,					
		Insurance, $					
		Marking					
		Inspection					
		Storage					
		Consular Fees, $ Legalization, $					
		Forwarding Charge and Services					
		Issuing Bills of Lading					
		Issuing Customs Clearance					
		Commission					
		Shipper's C. O. D.					
		Collection, Discount Fees					
		Telegrams, Cables and Postage					

FORM XII. FREIGHT FORWARDER'S EXPENSE BILL

When forwarding larger freight shipments that do not require consolidation with other shipments in order to overcome the hardships of the ocean carriers' minimum bill of lading requirements, forwarders' bills of lading are sometimes issued, but the forwarded cargoes are usually billed directly on ocean bills of lading and are handled by the forwarder in accordance with instructions received from the exporter. The ocean freight forwarder takes the place of an exporter's port shipping office. He receives the freight billed to him on railroad domestic bills of lading, arranges for their transfer to the ocean carrier's pier by lighters or trucks or in cars, prepares the ocean bill of lading, and attends to all of the documentary requirements and trade formalities that may arise at the port of export, pays freight and insurance premiums if so instructed and clears the shipment through the customs house. He is then reimbursed for specific expenses incurred, such as ocean freight prepaid, cartage, storage, marine insurance premiums and consular fees, and he receives certain direct payments for his forwarding services. These payments may be a flat forwarding or shipping charge of from $2 to $5, and possibly additional nominal charges for preparing the ocean bill of lading and shippers' export declaration. The forwarder obviously cannot depend solely upon these nominal direct payments received from the shipper. The freight brokerage commission received from the ocean carrier is a source of revenue, and he may receive compensation as an insurance broker from the marine insurance company with which the necessary insurance was placed. He may, in fact, have other sources of income such as collection or discount fees, in case he renders a financial service, storage charges, in case he is himself engaged in the warehousing business, and a profit may at times be made as a result of special arrangements with trucking companies and ocean carriers.

Besides the regular services of ocean freight forwarders acting as port representatives and their customary function in handling small express shipments, exporters sometimes call upon them for special services. Ocean freight forwarders will arrange for through freight services, including delivery at inland destinations in foreign countries. They operate abroad through foreign freight forwarders or "spediteurs" who, according to agreement, handle large freight shipments as well as smaller express shipments billed to them by American forwarding firms. They frequently quote through freight rates to foreign inland destinations. A forwarder, moreover, may undertake the forwarding of a shipment on a freight collect basis, freight charges being prepaid to carriers by the forwarder and later collected from the consignee through his foreign representative. He may also perform special trade and financial services such as the care and handling of refused goods, the collection of merchandise bills c.o.d., the advance of loans to customers, and the payment of import duties. The contracting of marine insurance by forwarders when instructed by shippers is also a distinct service, not a part of their customary work as port representatives.

As in the field of export middlemen, where large general export houses perform a wide variety of services, so also are there firms that have advanced far beyond the customary activities of ocean freight forwarders. The Bush Terminal Company and its newly organized and affiliated company, the Bush Service Corporation, combines forwarding, rail and ocean terminal, warehousing, distribution, and financial functions through an extensive network of physical properties and business arrangements. The Bush Terminal at South Brooklyn operates 200 acres of waterfront "with piers, warehouses, factories and railroad terminals, serviced by its own lighterage and switching facilities, and connecting with ten railroads radiating to all parts of the continent."[8] European headquarters are centered in Bush House, on the Strand in London, and 300 foreign branch offices and 930 agencies are maintained. Besides performing the functions of a large ocean terminal, announcement is made that the combined service will provide the efficient "routing of merchandise in accordance with requirements; the advantage of consolidated car shipments; warehousing and cartage at any point; packing and repacking; marking and stamping; division of large consignments into smaller lots or vice versa; the fulfillment of port, consular, import or export Governmental requirements; and the issue of warrants and other documents of possession."[9] The company has stated that "the producer's goods will be taken from his platform anywhere in the United States, and delivered on one document to the destination in Europe, the Bush organization assuming broad responsibilities. The comparatively small American producer, moreover, will be offered facilities for keeping spot stocks wherever he desires in Europe and the Near East." Customers may obtain either a "certificate," "comprising in effect a through bill of lading for rail and ocean transit, for intermediary carriage, storage and handling, and a warehouse receipt,'' or, a ''trade facility warrant'' which is a ''document of continuous possession with guaranteed maturity.''[10] The former is designed to ''facilitate banking operations, and assures increased security to the bank.'' The latter enables shippers who do not desire to draw upon their own banking credit, to obtain loans up to 60 per cent of the agreed value of their shipments from the Bush Service Corporation. In either case the corporation assumes responsibility to an agreed value and in turn is covered by insurance. The service also includes commercial services such as advice concerning foreign market demand, methods of trade promotion, available trade channels, the selection of foreign agents, tariff and customs changes and government restrictions.[11]

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[8] *See Distribution and Warehousing*, March, 1930.

[9] *Ibid.*

Interior exporters not maintaining port shipping offices are, however, not wholly dependent upon ocean freight forwarders or upon forwarding, warehousing, and terminal concerns for the necessary forwarding service. When exporting indirectly through export houses the shipments after arriving at the port of export are forwarded by the export house. Many ocean steamship lines, moreover, have established forwarding departments which take charge of export shipments at the port of export and forward them via the vessels of their own lines. But the forwarding departments of ocean carriers are interested only in their own traffic requirements, while independent ocean freight forwarders are in a position to expedite shipments by forwarding them via the first available steamer or the line affording the promptest delivery.

In shipping small parcels, international parcel post services are frequently utilized,[12] and larger shipments are in many instances billed on through railroad export bills of lading. When the through railroad bill of lading is issued the railroad making delivery at the port of export sees to the transfer of the shipment to the ocean carrier and attends to all incidental requirements, a definite charge being made for the forwarding service. Although much export freight is shipped this way, many exporters prefer to make their own port arrangements either directly or through ocean freight forwarders.

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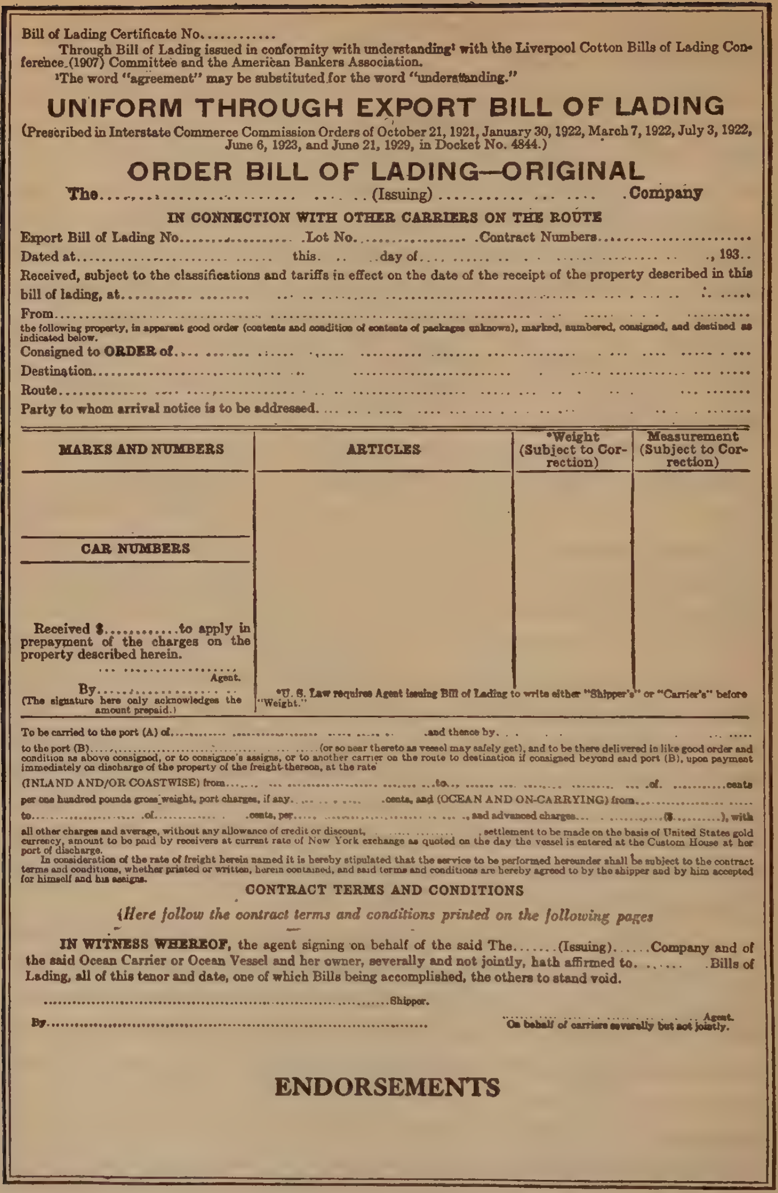
[10] *Ibid.*, April, 1930.

[11] *Ibid.*, March, 1930.

[12] *See* Chapter XX.



Bill of Lading Certificate No............

Through Bill of Lading issued in conformity with understanding[1] with the Liverpool Cotton Bills of Lading Conference (1907) Committee and the American Bankers Association.

[1] The word "agreement" may be substituted for the word "understanding."

UNIFORM THROUGH EXPORT BILL OF LADING

(Prescribed in Interstate Commerce Commission Orders of October 21, 1921, January 30, 1922, March 7, 1922, July 3, 1922, June 6, 1923, and June 21, 1929, in Docket No. 4844.)

ORDER BILL OF LADING—ORIGINAL

The.............................(Issuing).............................Company

IN CONNECTION WITH OTHER CARRIERS ON THE ROUTE

Export Bill of Lading No................Lot No................Contract Numbers................

Dated at................this.......day of................, 193..

Received, subject to the classifications and tariffs in effect on the date of the receipt of the property described in this bill of lading, at................................

From................................

the following property, in apparent good order (contents and condition of contents of packages unknown), marked, numbered, consigned, and destined as indicated below.

Consigned to **ORDER** of................................

Destination................................

Route................................

Party to whom arrival notice is to be addressed................................

MARKS AND NUMBERS	ARTICLES	*Weight (Subject to Correction)	Measurement (Subject to Correction)
CAR NUMBERS			
Received $............to apply in prepayment of the charges on the property described herein. ....Agent. By........................ (The signature here only acknowledges the amount prepaid.)	*U. S. Law requires Agent issuing Bill of Lading to write either "Shipper's" or "Carrier's" before "Weight."		

To be carried to the port (A) of................................and thence by................

to the port (B)................................(or so near thereto as vessel may safely get), and to be there delivered in like good order and condition as above consigned, or to consignee's assigns, or to another carrier on the route to destination if consigned beyond said port (B), upon payment immediately on discharge of the property of the freight thereon, at the rate

(INLAND AND/OR COASTWISE) from................................to................of................cents per one hundred pounds gross weight, port charges, if any................cents, and (OCEAN AND ON-CARRYING) from................................to................of................cents, per................................and advanced charges................($................), with all other charges and average, without any allowance of credit or discount,................, settlement to be made on the basis of United States gold currency, amount to be paid by receivers at current rate of New York exchange as quoted on the day the vessel is entered at the Custom House at her port of discharge.

In consideration of the rate of freight herein named it is hereby stipulated that the service to be performed hereunder shall be subject to the contract terms and conditions, whether printed or written, herein contained, and said terms and conditions are hereby agreed to by the shipper and by him accepted for himself and his assigns.

CONTRACT TERMS AND CONDITIONS

(Here follow the contract terms and conditions printed on the following pages

IN WITNESS WHEREOF, the agent signing on behalf of the said The......(Issuing)......Company and of the said Ocean Carrier or Ocean Vessel and her owner, severally and not jointly, hath affirmed to................Bills of Lading, all of this tenor and date, one of which Bills being accomplished, the others to stand void.

....Shipper.

By..

................................Agent.
On behalf of carriers severally but not jointly.

ENDORSEMENTS

FORM XIII. UNIFORM THROUGH EXPORT BILL OF LADING

Objections to the use of through railroad export bills of lading voiced by some exporters variously imply that shipments so billed are less likely to retain the full advantage of prompt ocean sailings and favorable ocean rates, that some banks and marine insurance companies are opposed to such billing, that the filing of freight claims is complicated, or that direct economies may result from the services of a port shipping office or an efficient ocean freight forwarder. Railroads are more likely to forward shipments by way of particular steamship lines, and should a shipment fail to arrive in time for the vessel for which it was intended there is less likelihood of its transfer to a different line for shipment in a steamer scheduled for prompt sailing. The rail carrier may probably deliver the shipment as originally billed, although it reserves the right to transfer it to a different line. Financing and insurance is complicated somewhat, although not in an impossible manner, because the through railroad bill of lading, as issued by a railroad freight agent, may contain only the name of the steamship line; the bank making payments on letters of credit, however, wishing to know the actual date of sailing; and the insurance company, the name of the steamer in which the shipment is made. Freight claims are complicated somewhat because, although merchandise billed on a railroad export bill of lading is not handled at the port of export by the shipper or his own port representative, this form of bill of lading is not a joint contract. Each of the three sections into which the contract provisions are divided constitutes a separate contract. Part I, applicable to railroads, provides that "no carrier shall be liable for loss, damage or injury not occurring on its own road or its own water line or its portion of the through route, nor after said property has been delivered to the next carrier." Part II, applicable to the ocean carrier, similarly provides that the ocean carrier is not liable for loss or damage occurring after it has delivered a shipment to a connecting carrier for further transportation to a point beyond the port of discharge.[13]

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[13] CONTRACT TERMS AND CONDITIONS

Incorporated in the Uniform Through Export Bill of Lading

Any alteration, addition or erasure in this bill of lading which shall be made without the special notation hereon of the agent of the carrier issuing this bill of lading shall be without effect and this bill of lading shall be en-

Ship Brokers and Stevedores.—When the ocean tramp service is utilized the exporter has occasion to make arrangements with ship brokers and perhaps with ocean stevedores. Ship brokers make a business of finding charterers for tramp owners or

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forceable according to its original tenor. If shipment consists of cotton or cotton linters it is mutually understood and agreed that the description of the condition does not relate to insufficiency of or the torn condition of the covering, or to any damage resulting therefrom, and that no carrier shall be responsible for any damage of such nature. The vessel shall be at liberty to call at any port or ports in or out of the customary route, to tow and be towed, to transfer, trans-ship, or lighter, to load and discharge goods at any time, to assist vessels in distress, to deviate for the purpose of saving life or property, and for docking and repairs.

This bill of lading is not to be used on traffic from a point in the United States destined to an adjacent foreign country.

PART I.—With respect to the service until delivery at the port (A) first above mentioned it is agreed that—

1. (a) The carrier or party in possession of any of the property herein described shall be liable as at common law for any loss thereof or damage thereto except as hereinafter provided.

(b) No carrier or party in possession of all or any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, the authority of law, or the act or default of the shipper or owner, or for natural shrinkage. The carrier's liability shall be that of warehouseman, only, for loss, damage, or delay caused by fire occurring after the expiration of the free time allowed by tariffs lawfully on file (such free time to be computed as therein provided) after notice of the arrival of the property at destination or at the port of export (if intended for export) has been duly sent or given, and after placement of the property for delivery at the port of export, or tender of delivery of the property to the party entitled to receive it, has been made. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon the request of the shipper, owner, or party entitled to make such request, or resulting from a defect or vice in the property, or for country damage to cotton, or from riots or strikes.

(c) In case of quarantine the property may be discharged at risk and expense of owners into quarantine depot or elsewhere, as required by quarantine regulations, or authorities, or for the carrier's dispatch, at nearest available point in carrier's judgment, and in any such case carrier's responsibility shall cease when the property is so discharged, or the property may be returned by carrier at owner's expense to shipping point, earning freight both ways. Quarantine expenses of whatever nature or kind upon or in respect to the property shall be borne by the owners of the property or be a lien thereon. The carrier shall not be liable for loss or damage occasioned by fumigation or disinfection or other acts required or done by quarantine regulations or authorities, even though the same may have been done by carrier's officers, agents, employees, or crew, nor for detention, loss or damage of any kind occasioned by quarantine or the enforcement thereof. No carrier shall be liable except in case of negligence for any mistake or inaccuracy in any information furnished by the carrier, its agents, or officers, as to quarantine laws or regulations. The shipper shall hold the carriers harmless from any expense they may incur, or damages they may be required to pay, by reason of the introduction of the operators and tramp vessels for charterers. They bring together the owner and charterer, arrange the chartering transaction, and, when terms have been agreed upon, prepare and execute the governing contract or "charter party," receiving

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property covered by this contract into any place against the quarantine laws or regulations in effect at such place.

2. (a) In issuing this bill of lading this company agrees to transport only over its own line and acts only as agent with respect to the portion of the route beyond its own line.

(b) No carrier shall be liable for loss, damage, or injury not occurring on its own road or its own water line or its portion of the through route, nor after said property has been delivered to the next carrier.

3. (a) No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market or otherwise than with reasonable dispatch. Every carrier shall have the right in case of physical necessity to forward said property by any carrier or route between the point of shipment and said port (A).

(b) The amount of any loss or damage, including loss or damage arising from delay for which any carrier is liable, shall be computed on the basis of the value of the property (being the bona fide invoice price, if any, to the consignee, including the freight charges, if paid) at the place and time of shipment under this bill of lading, unless a lower value has been represented in writing by the shipper or has been agreed upon or is determined by the classification or tariffs upon which the rate is based, in any of which events such lower value shall be the maximum amount to govern such computation, whether or not such loss or damage occurs from negligence.

(c) Claims for loss, damage, or delay must be made in writing to the carrier at the port of export or to the carrier issuing this bill of lading within nine months after delivery of the property at said port (A), or, in case of failure to make such delivery, then within nine months after a reasonable time for such delivery has elapsed; and claims so made against said delivering or issuing carrier shall be deemed to have been made against any carrier which may be liable hereunder. Unless claims are so made the carrier shall not be liable.

(d) Any carrier or party liable on account of loss or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance. Provided, That the carrier reimburse the claimant for the premium paid thereon.

4. Except where such service is required as the result of carrier's negligence, all property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton or cotton linters is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression.

5. (a) Property not removed by the exporting carrier, or the party entitled to receive it, within the free time allowed by tariffs lawfully on file (such free time to be computed as therein provided), after notice of the arrival of the property at port (A) has been duly sent or given, and after placement of the property for delivery at port (A), or tender of the property for delivery upon order of the party entitled to receive it has been made, may be kept in vessel, car, depot, or place of delivery of the carrier or warehouse, subject to the tariff charge for storage and to the carrier's responsibility as warehouseman, only, or at the option of the carrier, may be removed to and stored in a public or licensed warehouse

a commission from the vessel owner for their services. Should the charter party provide that the charterer is to load the cargo, it may be possible to arrange for a loading service through a ship broker, and tramp owners, when required in the charter

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at port (A), or other available place, at the cost of the owner, and there held without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

(b) Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed freight agent shall be entirely at risk of owner, after unloaded from cars or vessels or until loaded into cars or vessels, and, except in case of carrier's negligence, when received from or delivered to such stations, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from locomotive or train or until loaded into and after unloaded from vessels.

6. No carrier hereunder will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classifications or tariffs unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

7. Every party, whether principal or agent, shipping explosives or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for and indemnify the carrier against all loss or damage caused by such goods, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

8. The owner or consignee shall pay the freight, and average, if any, and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If, upon inspection, it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

9. (a) If all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to all the terms and provisions of, and all the exemptions from liability contained in, the Act of Congress of the United States, approved on February 13, 1893, and entitled "An Act relating to the navigation of vessels, etc.," and of other statutes of the United States according carriers by water the protection of limited liability, and to the conditions contained in this bill of lading not inconsistent therewith or with this section.

(b) No such carrier by water shall be liable for any loss or damage resulting from any fire happening to or on board the vessel, or from explosion, bursting of boilers, or breakage of shafts, unless caused by the design or neglect of such carrier.

(c) If the owner shall have exercised due diligence in making the vessel in all respects seaworthy and properly manned, equipped, and supplied, no such carrier shall be liable for any loss or damage resulting from the perils of the lakes, seas, or other waters, or from latent defects in hull, machinery, or appurtenances, whether existing prior to, at the time of, or after sailing, or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. Except in case of negligence, such carrier shall not be responsible for any loss or damage to property if it be necessary or is usual to carry the same upon deck.

(d) General Average shall be payable according to the York-Antwerp Rules of 1924, Sections 1 to 15, inclusive, and Sections 17 to 22, inclusive, and as to matters not covered thereby according to the laws and usages of the Port of New York. If the owners shall have exercised due diligence to make the vessel in all respects seaworthy and properly manned, equipped, and supplied, it is hereby agreed that in case of danger, damage, or disaster resulting from faults or errors in navigation, or in the management of the to load the cargo, may do likewise. Should the charterer desire cargo in addition to the cargo which he is himself shipping he may be able to engage a ship broker to solicit freight, and a tramp owner may similarly employ a ship broker to put his

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vessel, or from any latent or other defects in the vessel, her machinery or appurtenances, or from unseaworthiness, whether existing at the time of shipment or at the beginning of the voyage (provided the latent or other defects or the unseaworthiness was not discoverable by the exercise of due diligence), the shippers, consignees, and/or owners of the cargo shall nevertheless pay salvage and any special charges incurred in respect of the cargo, and shall contribute with the shipowner in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred for the common benefit or to relieve the adventure from any common peril.

(e) If the property is being carried under a tariff which provides that any carrier or carrier's party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the provisions of this section shall be modified in accordance with the tariff provisions, which shall be regarded as incorporated into the conditions of this bill of lading.

(f) The term "water carriage" in this section shall not be construed as including lighterage in or across rivers, harbors, or lakes, when performed by or on behalf of rail carriers.

10. (a) No carrier shall be liable for delay not occurring on its own line, or not the result of its negligence, nor in any respect other than as warehouseman, while the property awaits further conveyance after proper tender of delivery to the next connecting carrier has been made, and if the whole or any part of the property specified herein be prevented by any cause from going from the port of export in the vessel for which intended, the carrier hereunder then in possession is at liberty to forward said property by another vessel of the ocean carrier, or, if deemed necessary, by any other vessel, dispatching notice thereof to the shipper and consignee.

(b) It shall be the duty of the carrier by railroad to deliver such property to the vessel as a part of its undertaking as a common carrier.

PART II.—With respect to the service after delivery at the port (A) first above mentioned, and until delivery at the port (B) second above mentioned, it is agreed that—

1. (a) The vessel shall have liberty to sail with or without pilots; the ocean carrier shall have liberty to convey goods in craft and/or lighters to and from the vessel at the risk of the owners of the goods; and, in case the vessel shall put into a port of refuge, or be prevented from any cause from proceeding in the ordinary course of her voyage, to trans-ship the goods to their destination by any other vessel, dispatching notice thereof to the consignee, if named herein (at destination named), and otherwise to the shipper. The ocean carrier shall not be liable for loss or damage occasioned by fire from any cause or wheresoever occurring; by barratry of the master or crew; by enemies, pirates, or robbers; by arrest or restraint of princes, rulers or people, riots, strikes, or stoppage of labor; by explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances, or unseaworthiness of the vessel, whether existing at time of shipment, or at the beginning of the voyage, provided the owners have exercised due diligence to make the vessel seaworthy; by fumigation under Governmental orders; by heating, frost, decay, putrefaction, rust, sweat, change of character, drainage, leakage, breakage, vermin, or by explosion of any of the goods whether shipped with or without disclosure of their nature, or any loss or damage arising from the nature of the goods or the insufficiency of packages; nor for inland

vessel "on the berth" and provide cargo for it. Ship brokers may also act as marine insurance brokers, steamship agents for tramp owners, or vessel sales agents, and they sometimes charter

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damage; nor for the obliteration, errors, insufficiency or absence of marks, numbers, address, or description; nor for risk of craft, hulk or transshipment; nor for any loss or damage caused by the prolongation of the voyage. The ocean carrier shall not be concluded as to correctness of statements herein of quality, quantity, gauge, contents, weight, and value.

(b) General Average shall be payable according to the York-Antwerp Rules of 1924, Sections 1 to 15, inclusive, and Sections 17 to 22, inclusive, and as to matters not covered thereby according to the laws and usages of the Port of New York. If the owners shall have exercised due diligence to make the vessel in all respects seaworthy and properly manned, equipped, and supplied, it is hereby agreed that in case of danger, damage, or disaster resulting from faults or errors in navigation, or in the management of the vessel, or from any latent or other defects in the vessel, her machinery or appurtenances, or from unseaworthiness, whether existing at the time of shipment or at the beginning of the voyage (provided the latent or other defect or the unseaworthiness was not discoverable by the exercise of due diligence), the shippers, consignees, and/or owners of the cargo shall nevertheless pay salvage and any special charges incurred in respect of the cargo, and shall contribute with the shipowner in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred for the common benefit or to relieve the adventure from any common peril.

2. This shipment until delivery at the port (B) second above mentioned is subject to all the terms and provisions of, and all the exemptions from liability contained in, the Act of Congress of the United States, approved on the 13th day of February, 1893, and entitled, "An Act relating to the navigation of vessels, etc." This shipment is subject to the provisions of Sections 4281-4286, inclusive, of the Revised Statutes of the United States.

3. (a) The value of each package shipped hereunder does not exceed two hundred and fifty dollars unless otherwise stated herein, on which basis the freight is adjusted, and the ocean carrier's liability shall in no case exceed that sum or the invoice value (including freight charges, if paid, and including duty if paid and not returnable), whichever shall be the least, unless a value in excess thereof be specially declared and stated herein, and extra freight as may be agreed upon, paid. Any partial loss or damage for which the carrier may be liable shall be adjusted pro rata on the above basis.

(b) Notice of loss, damage, or delay must be given in writing to the carrier receiving the goods for transportation between Port A and Port B within 30 days after the removal of the goods from the custody of such carrier, or, in case of failure to make delivery, within 30 days after the goods should have been delivered, provided, that if such loss or damage is apparent at the time of the removal of the goods from the custody of the carrier, the notice of loss, damage, or delay must be given before the goods are so removed, in which case notation of the loss or damage made on the receipt given to the carrier for the goods shall constitute the notice herein required. Written claim must be filed with such carrier within nine months after giving the aforesaid written notice. Unless such notice is given and claim filed as above provided, the carrier shall not be liable. No suit to recover for such loss, damage, or delay shall be maintained unless instituted within one year after the giving of the written notice of loss, damage, or delay above provided for.

(c) The carrier shall not be entitled to the benefit of any insurance vessels on their own account and put them on the berth for cargo.

When the charter party requires the charterer to load his

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that may have been effected by the shipper upon the goods shipped thereunder.

4. Shippers shall be liable for any loss or damage to vessel or cargo, caused by inflammable, explosive, or dangerous goods, shipped without full disclosure of their nature, whether such shipper be principal or agent; and such goods so shipped may be thrown overboard or destroyed at any time without compensation.

5. The carrier shall have a lien on the goods for all freights and charges and any sums that may be due under this bill of lading, and also for all fines or damages which the vessel or cargo may incur or suffer by reason of the illegal, incorrect, or insufficient marking, numbering or addressing of packages or description of their contents.

6. If the vessel is prevented from reaching her destination by quarantine, the carrier may discharge the goods into any depot or lazaretto, under suitable available protection, dispatching notice thereof to the consignee, if named herein (at destination named), and otherwise to the shipper, and such discharge shall be deemed a final delivery under this contract, and all the expenses thereby incurred on the goods shall be a lien thereon.

7. The vessel may commence discharging immediately on arrival and discharge continuously, any custom of the port to the contrary notwithstanding, the Collector of the Port or other proper officer being hereby authorized to grant a general order for discharge immediately on arrival, and if the goods be not taken from the vessel by the consignee directly they come to hand in discharging the vessel, the master or vessel's agent to be at liberty to enter and land the goods, or put them into craft or store at the owner's risk and expense, dispatching notice thereof to the consignee, if named herein (at destination named), and otherwise to the shipper, when the goods shall be deemed delivered and vessel's responsibility ended, but the vessel and carrier to have a lien on such goods until the payment of all costs and charges so incurred.

8. If on a sale of the goods at destination for freight and charges, the proceeds fail to cover said freight and charges, the ocean carrier shall be entitled to recover the difference from the shipper, owner, or consignee. Full freight is payable on damaged or unsound goods; but no freight is due on any increase in bulk or weight caused by the absorption of water during the voyage. Freight prepaid will not be returned provided the goods have been loaded on the vessel.

9. In the event of claims for short delivery when the vessel reaches her destination, the value shall be adjusted as per conditions under Clause 3, less all charges saved, vessel being responsible only for such part of the goods as has been actually delivered to the vessel at the Port (A) above mentioned, and vessel not liable for any loss or damage that may have occurred before such delivery, while agreeing to present promptly to inland carriers for account of owners of goods any claims for shortage or loss or damage that may have occurred before delivery of the goods at the Port (A) above mentioned.

10. Goods on wharf awaiting shipment or delivery shall not be at ocean carrier's risk of loss or damage not happening through the fault or negligence of the owner, master, agent, or manager of the vessel, any custom of the port to the contrary notwithstanding.

11. This bill of lading, duly indorsed, shall be given up to the vessel's consignee in exchange for delivery order.

12. Freight payable on weight is to be paid on gross weight landed from ocean vessel, unless herein otherwise provided, or unless the carrier elects to

cargo aboard a tramp vessel, he may prefer to make his own direct loading arrangements with a stevedoring firm. These firms are usually paid on a tonnage basis in accordance with established rates and in turn employ longshoremen at the longshoremen's scale of wages prevailing at the port of export.

COLLATERAL READINGS

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Hough, B. O.—*Foreign Trade Traffic Management* (LaSalle Extension University, Manual 39, 1927).

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take the freight on the bill of lading weight, but inland freight and charges paid on wheat, peas, maize, or other grain, or seed, or other bulk articles, from point of shipment to seaboard shall be paid by consignee at destination on the weight delivered on board ocean vessel.

13. If from any cause the whole or any part of the articles specified herein do not go in the vessel for which intended, the carrier shall forward them by other vessel or vessels employed by the ocean carrier, or by other vessels.

14. The property covered by this bill of lading is subject to all conditions expressed in the regular form of port bill of lading in use by the steamship company on the date of execution of this document and on file, in accordance with the rules and regulations of the United States Shipping Board and/or the Interstate Commerce Commission, but if any of such conditions are in conflict with conditions 1-15 of Part II of this bill of lading, the latter conditions shall control.

15. If the goods covered by this bill of lading are consigned hereunder beyond the Port (B), the trans-shipment to connecting carrier shall be at the risk of the owner of the goods, but at vessel's expense, and all liability of the ocean carrier hereunder terminates on delivery to connecting carrier.

PART III.—With respect to the service after delivery at the Port (B) second above mentioned, and until delivery at ultimate destination if destined beyond that port, it is agreed that—

1. In case the regular vessel service to final port of delivery should for any reason be suspended or interrupted, the ocean carrier, at the option of the owner or consignee of the goods, or the holder of the bill of lading, may forward the goods to the nearest available port, this to be considered a final delivery, or to store them at the Port (B) second above mentioned at the risk and expense of the goods until regular service to final port of destination is opened again.

2. The property shall be subject exclusively to all the conditions of the carrier or carriers completing the transit.

3. The addressing of arrival notice to the notify party shall be exclusively the obligation of the carrier completing the transit.

AND FINALLY, in accepting this bill of lading, the shipper, owner, and consignee of the goods, and the holder of the bill of lading, agree to be bound by all its stipulations, exceptions, and conditions, whether written or printed, as fully as if they were all signed by such shipper, owner, consignee or holder.

HUEBNER, G. G., and JOHNSON, E. R.—*The Railroad Freight Service* (Appleton, 1926).

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CHAPTER XLI

OVERSEAS ROUTING

The routing of freight in the overseas trade is equally as important as in domestic commerce, and it is more complicated because it frequently involves not only transportation from inland plants to the seaboard, but transfer of cargo at the port of export and ocean transportation to a foreign port of discharge. Sometimes it also includes transfer of cargoes at a foreign port and transportation to inland destinations. Nor is the initial routing from the interior to the port of export a perfunctory by-product of industrial traffic work. The intelligent routing of foreign freight inland requires a knowledge of any special railroad rates, regulations, and port terminal arrangements that may be applicable to export or import shipments. In general the routing of export cargoes includes (1) the determination of the class of ocean transportation service desired—regular line, tramp or private, (2) the selection of a particular port and steamship line or vessel, (3) the selection of the inland route from the interior plant to the port of export, and (4) the transfer of the shipment from the inland to the ocean carrier. The extent to which these activities will be carried out by the exporter or the importer depends of course upon the sales contract and the type of export price quoted.

CLASSES OF OCEAN SERVICE

There are three well-recognized classes of ocean freight service: regular line, tramp, and private or industrial. Each has its particular advantages. The first two are freely available to the shipping public and the last, although primarily operated by large industrial or mercantile concerns for their own requirements, is also frequently available for the shipment of cargoes other than those shipped by the proprietary industries or merchants.

It is estimated that over 80 per cent of the tonnage operated in the overseas trades has in recent years been operated by regular ocean lines.[1] The construction of a large merchant fleet by the United States Government during the war period and the Shipping Board's policy of establishing many new lines is partly responsible for the rapid advance of the regular line service in American commerce, but this type of service has advanced generally and would no doubt have overshadowed the tramp service in any event. Private effort and government aid here and abroad have tended strongly toward an improved regular line service primarily because of the demands of foreign trade. This service is over definite ocean routes between fixed ports and on advertised schedules. Some regular lines are known as "passenger lines" because they carry primarily passengers, mail, and a limited quantity of express goods and high class freight traffic. Others are known as "combination freight and passenger lines." There are also many "freight lines," which carry freight cargoes exclusively, making a regular business of transporting less than shipload lots of general cargo over definite routes on announced schedules.

As against ocean tramps, regular lines have the advantage of regularity and speed. The world's fastest passenger and general cargo freight vessels operate in the regular line service. Exporters and importers are as keenly interested in a transportation service that facilitates regular and prompt deliveries as any business man engaged in domestic commerce. Transportation is gradually being speeded up almost everywhere and in ocean commerce regular lines are in a better position than tramps to attain increased speed because they attract the business of many small as well as large shippers of high class as well as of low class freight traffic, and in many instances also profitable passenger and mail traffic. The widening range of industries, business concerns, and commodities in foreign trade has meant a growing volume of general cargo moving in lots much smaller than the full load usually sought by the ocean tramp, and a growth in total volume of cargo at many ports and in many trades sufficiently large to warrant the operation of regular lines. The tendency of United States exports in the direction of finished manufactured products[2] is particularly significant as a future shipping factor, for such products usually move as general cargo, and shippers of them are especially interested in prompt transportation and as a general rule are best able to pay profitable freight rates. Each regular line, moreover, maintains definite terminal arrangements and facilities for the receipt and delivery of general cargo and a business organization for the development, solicitation, and booking of cargoes. The additional expenses incurred result in increased traffic for the regular lines.

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[1] E. T. Chamberlain, in *Commerce Reports*, July 20, 1925.

[2] *See* Chapter III.

The tramp service is utilized mainly by shippers of vessel load lots of bulk cargo such as grain, ore, coal, nitrates, and lumber, although it is also available when large lots of general cargo such as steel are shipped. Occasionally a tramp is placed "on the berth" for general cargo forwarded in smaller lots by several shippers, and a tramp chartered by a shipper to transport his own shipment may also accept the smaller cargoes of other shippers so as to fill the vessel more completely; but most ocean tramps are chartered by large shippers having vessel load lots of bulk commodities. They are hired either for a particular voyage or for a period of time on the basis of voyage or time charters. In the former case the rate of hire is usually based upon the quantity of cargo carried at a lump sum or at fixed rates per quarter of grain, thousand feet of lumber, ton of coal, or other defined cargo unit, and the minimum load to be provided by the charterer is variously prescribed or safeguarded. The rate of hire when a time charter is negotiated is usually based upon the deadweight tonnage of the vessel in case of a cargo carrier and upon its gross register (sometimes its net register) tonnage in case of a passenger vessel. Charter arrangements are usually made through ship brokers, although some tramp operators maintain substantial business organizations of their own. Some tramp vessels are chartered by steamship lines, mainly under time charters, to supplement their regular line fleets during seasons or periods of heavy traffic or while liners are being constructed, and they are then temporarily removed from the tramp service. The tramp service is mainly conducted on the basis of voyage charters the contract terms of which are arranged to meet the varying requirements of operators and charterers. Tramp vessels operate wherever there is cargo for them, at all ports not closed to them by inadequate physical conditions or legal restrictions, and without fixed routes or advertised schedules.

To shippers of large quantities of bulk commodities the tramp service has the advantage of low costs. In routing the raw materials of international commerce the favorable transportation costs of the tramp service are frequently preferred to the greater speed and regularity of the line service. When the cost advantage is lost, as it sometimes is where lines bid for grain as berth cargo on a basis substantially below their regular cargo rates, grain exporters may refuse to charter tramp vessels. The tramp service also has the advantage of flexibility. Shippers having their own facilities and arrangements for loading and discharging may hire a tramp on the basis of a net voyage charter under which the rate of hire excludes loading and discharging costs and certain port charges. Those not having such facilities and arrangements may negotiate a gross voyage charter under which the rate of hire covers the complete transportation service. Those preferring further variation in the costs included in the rate of hire may perhaps be able to charter a tramp on the basis of a modified gross or modified net charter. Those wishing to hire a vessel for a period of time may negotiate a time charter. The tramp service, however, is slow and irregular; it is not adapted to miscellaneous lots of general cargo, and it maintains no permanent wharf and traffic organization. It is the privilege of the exporter or importer to choose this class of ocean service when in making a particular shipment it is advantageous to do so.

Private or industrial ocean services are operated mainly by industrial or mercantile concerns that regularly ship or receive a large volume of cargo. Much traffic such as ore, crude and refined mineral oils, coal, lumber, steel, farm machinery, asphalt, fruit, and automobiles is transported in privately owned or controlled vessels. Although some of these privately operated services clearly serve as common carriers, they are distinctive in that they are operated primarily for the use of the industries or merchants that own or operate them. The motive actuating them is variously the use of specialized types of vessels better adapted to particular trades than either regular line or tramp vessels which are intended for the transportation of many kinds of cargo; complete control over the use and movement of the vessels carrying the owner's cargo shipments or receipts; greater stability of transportation costs, and in some instances minimum transportation costs. A private or industrial service, moreover, may become an important competitive asset or result in "more complete control over a particular industry or trade in so far as its control may depend upon ocean transportation facilities."[3]

SELECTION OF OCEAN LINE AND PORT

Having determined upon the general class of ocean service it becomes necessary to select a particular vessel or line. When the regular line service is utilized, as it now is in a heavy majority of instances, it may be found that export shipments can be routed to a given destination through various American or Canadian ports, and that at the larger ports several different ocean lines are available. Export routing then implies the selection of a definite port and line. Cost or service differences or a combination of both cost and service ordinarily will govern.

Cost differences may arise from variations in (1) ocean freight rates; (2) railroad or other inland transportation charges to different ports; (3) port charges or costs not included in the rates of rail and ocean carriers. The last of these cost factors will be discussed more fully in a subsequent chapter. It is referred to here because it is an element in the combined or through rail-ocean charges or costs of export shipments originating at inland shipping points, and enters into the selection of ports. Ocean freight rates, of course, are always a factor in export shipping costs and are considered in the selection of ports and steamship lines. They are particularly important in routing when the exporter or importer is interested more largely in minimum delivery costs than in maximum speed.

Ocean line freight rates are not as stable as railroad rates because they are less subject to government regulation and more subject to competitive forces. A degree of stability, however, is normally attained because most lines are members of ocean conferences through which their rates, particularly those applicable to general cargo, are either determined or limited. Agreements setting actual minimum or differential rates are variously arranged among conference lines. Their rate agreements are frequently supplemented by pooling arrangements, tonnage agreements, understandings as to number of sailings, division of territory, etc., designed to further control or direct the competition of member lines in particular trades, stabilize their rates, and improve the service offered by them. Not all lines serving a given port, however, charge the same general cargo rates. Nonconference lines may refuse to conform, and conferences recognize differential rates which the lines meeting in conference assign to member lines offering a slower, less direct, or otherwise inferior service. The line rates applicable at different ports or seaboards, moreover, may vary quite substantially. Ocean line rates to European destinations from the Atlantic seaboard of the United States, for example, are generally arranged on the basis of three groups of ports, the north Atlantic, the south Atlantic, and the Gulf ports.

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[3] Johnson and Huebner, *Principles of Ocean Transportation*, p. 152.

When the ocean conferences lose their usual measure of control, as was the case during the post-War period, rates are determined mainly by direct line competition, but normally the governing principle is that referred to as ''what the traffic will bear'' or ''what will move the traffic.'' In the steamship business, however, this does not result in a monopoly price. Competitive forces have much to do with what the traffic will bear in the case of any particular line or of entire groups of lines. The member lines of a conference usually continue to be rivals for traffic and therefore will refuse to enter rate agreements that are not mutually satisfactory, and in particular trades there may also be independent nonconference lines. Further direct competition is instilled by the tramp service which is not controlled by conferences, and the charter rates of which are the result of bargaining and free competition. Important commodities, carried by lines as berth cargo, are frequently excluded from line conference agreements or are covered merely by agreements setting minimum line rates. The conference lines serving particular ports or seaboards, moreover, are frequently subject to rate competition on the part of those serving other ports or seaboards. The rivalry of the several ports and seaboards is a potent form of commercial competition which affects both rail and ocean rates at different American ports, and the rates of all ocean steamship lines serving the United

States are influenced vitally by international commercial competition. Most American exports are so definitely subject to foreign competition that all lines serving American ports in international commerce are of necessity forced to consider the rates and services available to rival foreign exporters.

Several other rate bases are supplemental to the general principle of establishing line rates at what the traffic will bear or at what will move the traffic: (1) Separate ocean line rates are to an increasing extent being quoted for different commodities, in some instances because of unequal service costs, but more commonly because of their relative abilities to bear higher or lower rates. As in the railroad industry the value of different commodities, therefore, is frequently a primary factor when an effort is made to assign different rates to different commodities; and it also is an important factor when an ocean line adopts a freight classification. (2) The "value of the service" is a general basis in that it determines the maximum above which neither the rates of particular classes or commodities nor the general level of ocean rates as a whole can be maintained permanently, and it also is mainly responsible for the differential rates accorded those of the slower and less direct lines in particular trades. (3) A change in the relative supply of tonnage and cargoes, and the demand for them, is usually followed by a change in the general level of ocean rates.

(4) Although line rates are fixed primarily at what the traffic will bear, tempered in accordance with the commercial and competitive forces mentioned above; yet the cost of the services rendered by the lines is also a rate factor. Cost of service influences line rates in two general ways: First, it determines the minimum below which the general level of line rates on a given route may not long be maintained. The lines do not establish their rates by computing their total costs and adding to this amount to yield a profit, but they resist any reduction that causes rates to be lowered to the cost of the service, and they advance their rates in case their costs rise to a higher level and commercial and competitive conditions do not prevent. A portion of the increase in ocean rates following the outbreak of the War was traceable to the resulting increase in insurance costs, terminal charges, and running expenses, including the outlay for wages, supplies, and fuel. Should the costs of a particular line, however, differ widely from those of competitive lines or other lines performing similar services, the line may at times find itself unable to maintain its rates at a profitable level. Unfavorable costs have not

enabled American steamship lines at all times since 1920 to maintain their rates at a profitable level.

The cost of service also influences line rates on particular commodities. Particular rates are seldom based upon the total cost of service chargeable to an individual commodity on a cost-accounting basis. Should special expenses of any kind, however, arise in connection with a particular article or should its nature be such as to incur special risks, or its bulk be unfavorable to compact stowage, it may be obliged to pay a higher rate than other commodities, provided always that commercial conditions do not prevent such action. In case transshipment costs are incurred, moreover, or special expenses arise in handling a consignment in port, special amounts are, in many instances, added to the line rates in the freight bill that is submitted for payment. The extent to which particular rates are influenced by the cost of service depends in a large measure upon whether the commodity in question is relatively free from or subject to competition.

Although distance or the length of an ocean voyage and steaming time affect the cost of service, they do not control ocean rates. The rates on commodities, the movement of which is not controlled by active commercial competition or competition between ocean carriers, vary generally, although not precisely, in accordance with distance. Thus the rates on articles such as grain, flour, and provisions shipped from the United States to Europe vary as regards ports of destination. On the other hand, the rates on traffic that is more subject to commercial or market competition are frequently blanketed over many ports regardless of relative distances. Differences in the volume of inbound and outbound traffic, or in the relative ability of different trades to bear a higher or lower rate, may cause distance discrepancies involving many hundreds of miles.[4]

Ocean line rates applicable in the overseas foreign trade are less subject to public regulation than railroad rates, but the Shipping Board has been granted some important regulatory powers.

1. The rates of Government-owned lines are subject to a measure of direct control by the Shipping Board and its affiliated agency, the United States Shipping Board Merchant Fleet Corporation. Those of Government lines operated under contract by outside agents are determined currently by the companies acting as agents, subject to such degrees of Government control as is authorized in the several types of contract now in use, and this may be in addition to the more general regulatory powers provided for in the Shipping Act.

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[4] Johnson, Huebner and Wilson, *Principles of Transportation*, pp. 615-616.

2. The rates of private lines operating in the foreign trade of the United States are subject to regulation when unjust discrimination is shown to exist. The Shipping Act of 1916 prohibits unjust discrimination between shippers or ports, and rates "prejudicial to exporters of the United States as compared with their foreign competitors," and the Shipping Board is authorized to change line rates "to the extent necessary to correct such unjust discrimination or prejudice and make an order that the carrier shall discontinue demanding, charging, or collecting any such unjustly discriminatory or prejudicial rate, fare or charge." The Board is authorized to substitute just and reasonable regulations and practices relating to the receiving, handling, storing, or delivering of ocean cargoes for any regulations or practices found to be unjust or unreasonable. It cannot, however, regulate ocean line rates in the foreign trade unless an element of unfair discrimination is found to exist.

3. The powers conferred upon the Board with respect to ocean conferences exert an important influence over ocean rates and rate-making. Copies of all agreements, pools, understandings, or other conference arrangements are required to be filed with the Board, and the Board is authorized to "disapprove, cancel, or modify any agreement" found to "be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and foreign competitors, or to operate to the detriment of the commerce of the United States or to be in violation of this act. . . ." Certain practices are specifically outlawed. Ocean lines are prohibited from (*a*) paying or entering into agreements to pay deferred rebates to any shipper, the payments being contingent upon the shipper giving all or any portion of his shipments to a particular line or group of lines, or upon his complying with whatever terms the rebate agreement or arrangement may contain; (*b*) using "fighting ships" for the purpose of reducing or excluding competition by driving other ocean carriers out of a particular trade; (*c*) retaliating against a shipper in the matter of available space accommodations or by resorting to other unfair or discriminating methods "because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment or for any other reason"; and (*d*) entering into any "unfair or unjustly discriminatory con-

tract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (*a*′) cargo space accommodations or facilities, due regard being had for the proper loading of the vessel and the available tonnage, (*b*′) the loading and landing of freight in proper condition, or (*c*′) the adjustment and settlement of claims.''

Ocean line freight rates are quoted in terms of various cargo units. Many rates are quoted at stated amounts ''per ton weight or measurement, ship's option,'' *i.e.*, the rate for a particular shipment will be based either upon its weight or upon the space occupied by it, whichever is applied by the steamship line. The weight ton in such a quotation in the export trade of the United States, is usually a gross ton of 2,240 pounds, but in some trades the net ton of 2,000 pounds is used. The customary measurement ton is one of 40 cubic feet. Many rates are similarly quoted for particular commodities at stated amounts per 100 pounds or cubic foot, ship's option, two rates being included in the quotation, the one on the weight basis and the other on the measurement basis. Many other rates are quoted for particular commodities on a single basis without an option on the part of the ship operator as between the weight or measurement basis. Such rates are quoted at stated amounts per weight ton—gross, net, or metric; or per 100 pounds; or per bag, bushel, quarter, case, barrel, drum, carboy, thousand feet, bale, box, basket, head, lineal foot, or other cargo unit, as especially defined or understood in particular industries or trades. It has, during recent years, become a more common practice than formerly to quote different rates for different commodities. The most common practice is to quote commodity rates on a list of named commodities and to account for other shipments in a general cargo rate, weight or measurement, ship's option. A small minority of lines quote class as well as commodity rates, many articles of ocean commerce being assigned to a limited number of classes. Most ocean lines do not publish classifications, and the comparatively few ocean freight classifications utilized in the foreign trade are far less comprehensive than those of the railroads.

Although a number of ocean lines publish rate tariffs, exporters desiring rate quotations are dependent upon such business organization as has been provided for that purpose. Some ocean line tariffs contain minimum rates only; while others, containing rates effective at the time of publication, cannot be used with assurance because they usually specify that "rates are subject to change without notice," and important commodities may be excluded from published tariffs. Many more ocean lines publish no rate tariffs whatever for the use of the shipping public. Rate quotations are obtained (1) from the freight agents or freight solicitors and the cargo contract or booking clerks, employed in the freight traffic departments of the several lines, or of the steamship agents by whom some lines are represented in the United States; (2) from ocean freight brokers and ocean freight forwarders; and (3) in case of freight billed on through export bills of lading, from railroad freight agents at railroad stations where such bills are issued.

But cost differences do not always govern the selection of particular ports and ocean lines. The exporter or importer may also be interested in service differences, and he may, indeed, be governed primarily by them. The urge for speed or prompt delivery is becoming more and more pronounced. The time element in shipping variously affects the extension of foreign credits, the turnover of funds, the carrying of foreign stocks by exporters and importers, warehousing facilities and practices, channels of distribution, the condition of perishable cargoes, and even production policies. Speed is becoming a factor of increasing importance in international competition. Inland exporters, of course, are again concerned with the through transportation service, with the time required by different rail or other inland routes in delivering export freight at the seaboard, and with the efficiency of port transfer arrangements and port facilities, as well as with the transportation efficiency of different steamship lines.

The exporter or importer, in selecting a particular steamship line with a view to obtaining prompt delivery, is guided primarily by the sailing dates and speed of its vessels and the directness of its ocean routes. If the time element is to govern he will endeavor to book his shipment on the vessel that in all probability will reach the destination port in the shortest scheduled period of time, and he will select the steamship line with that end in view. He may select a line operating the fastest available passenger vessels and be willing to pay a rate very substantially above the rates quoted by slower lines. He may be guided somewhat by cost considerations, and book his cargo on a somewhat slower combination freight and passenger vessel, or he may route via a regular freight line equipped with modern freight liners operated on a schedule satisfactory to his purposes. Indirect line services requiring transshipment, and lines operating over indirect routes or making time-consuming stops en route will be avoided by him regardless of sailing dates if a faster direct service is available.

A service difference may also be found in the loss and damage record of particular steamship lines. The condition of perishable freight may depend not only upon prompt delivery, but upon the care with which it is stowed, and handled, and if the vessels of a particular line are equipped with efficient and commodious refrigeration facilities they are certain to attract much perishable freight. Nonperishables, however, are also subject to loss and damage, and the exporter or importer through experience or otherwise may learn that the loss and damage records of particular lines, due to careful stowage and handling methods, efficient policing, or other reason, are favorable. Although the shipment will doubtless be covered by marine insurance, an insurance indemnity is usually a poor substitute for a satisfied customer.

SELECTION OF INLAND ROUTES

Having selected the port of export, the class of ocean service and the ocean carrier for an export shipment originating at an interior point, the routing of the shipment to the port also becomes an essential part of the export shipping transaction. Indeed, the availability of a desirable inland route may have played an important part in the selection of the port of export, and efficient physical connection and storage or other working arrangements between inland and ocean carriers may have been a factor in selecting a particular ocean steamship line. The extent to which dissimilar arrangements can be made by railroads with ocean carriers is limited by Section 6 of the Interstate Commerce Act which provides that "if any rail carrier subject to the Act to regulate commerce enters into arrangements with any water carrier operating from a port in the United

States to a foreign country, through the Panama Canal or *otherwise*, for the handling of through business between interior points of the United States and such foreign country, the Interstate Commerce Commission may require such railway to enter into similar arrangements with any or all other lines of steamships operating from said port to the same foreign country.''

The selection of the inland route may be left to the initial railroad, but the shipper has routing powers under the terms of the Interstate Commerce Act, and firms regularly engaged in shipping customarily route their shipments in accordance with whatever cost or service advantages or other routing factors they have in mind. Cost advantages may depend upon differences in rates via standard or differential all-rail routes; differential rates via available rail-lake, rail-ocean or all-water routes; and the application of special railroad export rates, or, in the import trade, of special import rates. Most exports routed to New York, Philadelphia, Baltimore, and the Virginia ports from the Middle West move on the regular domestic inland rates applicable over the several available inland routes, but to ports north of New York, including the Eastern Canadian ports, and to the ports of the South Atlantic, Gulf, and Pacific seaboards, much export freight is entitled to special export railroad rates most of which are based either specifically or generally upon the domestic or export rates in effect to a selected North Atlantic port. The domestic railroad rates to the other seaboards from the central west are higher than to the basic rate ports of the North Atlantic, their special export rates being intended as a means of substantially equalizing the combined inland and ocean freight rates by way of all competing ocean ports. Cost advantages may also result from private sidings or industrial railroad connections, favorable location of freight stations, or other considerations at the inland point of origin, or from direct deliveries, switching absorption, favorable location of l.c.l. delivery points and lower cartage expenses, or other cost advantages in a selected railroad's ocean port terminals. ''The aggregate bill includes freight charges and all special charges and costs incurred en route and at terminals, those paid directly to the carriers, and cartage, storage, marine insurance or other charges or costs that may be incurred in connection with a shipment.''[5]

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[5] *Ibid.*, p. 150.

When promptness in delivery is the major purpose of the exporter in routing a particular shipment he will not only select the port and steamship line with that in mind, but also the inland route over which his shipment will be delivered at the port of export. He will take full advantage of available expedited railroad freight services, through l.c.l. package car services, the favorable location of a freight house, direct rail connections over a private siding, arrangements and facilities for prompt transfer at the port and the probable success with which his export or industrial traffic department can make arrangements to expedite the shipment. All factors having a bearing upon prompt rail delivery will be considered, and at the points not too far removed from the port due attention will be given to available motor truck services. When speed is paramount the railroad express service is utilized, and commercial aviation services are available for smaller quantities of freight at an increasing number of inland points.

Other inland routing considerations are the special transit services of the railroads in so far as they at times enter into export and import shipping, the desire and feasibility of reducing the danger of loss or damage by giving careful attention to routing, the ease with which shipments may be traced in case of delay en route, the prompt settlement of freight claims, the effective salesmanship and personal connection of railroad traffic solicitors, and, in case of firms selling steel or other materials to railroads, the importance of certain inland carriers as customers.

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CHAPTER XLII

TRANSFER OF FOREIGN SHIPMENTS AT OCEAN PORTS

Whatever business organization or agency is provided to supervise the physical transfer of foreign shipments at the port of export or import—the shippers' export traffic organization, an ocean freight forwarder, the rail carrier acting on the basis of a through export bill of lading, the forwarding department of an ocean carrier, or an export commission house or other foreign trade middleman—the foreign trader will do well to familiarize himself with port transfer arrangements and methods, charges, and facilities. The interchange of freight in foreign trade is complicated by the necessity of actually transferring merchandise between railroad car and steamer. Interchange cannot be made by switching loaded cars from one carrier to another, and as was discussed in Chapter XL, when through export or import bills of lading are not used, the exporter or importer is directly responsible for the making of definite arrangements for the transfer of his cargo.

TRANSFER ARRANGEMENTS

In some instances, ocean cargoes can be switched alongside or directly to wharves and piers in railroad cars. Some railroads are equipped with spur tracks providing direct connection with the waterfront. Some can make rail connection only by having cars switched over the tracks of another railroad, and at some ocean ports, terminal, or belt line railroads provide connection with the steamship docks. Where rail and ocean terminals are not coördinated by railroad track connection, much carload freight is lightered, the railroad serving the port, or specialized lighterage companies organized and equipped to conduct a lighterage service, providing and operating fleets of harbor lighters and car floats. At New York where the geographical location of the port necessitates extensive lighterage operations, a free lighterage zone within which carload shipments of export and import freight[1] are lightered without additional expense to the shipper has been defined by the railroads serving the port. The additional expense incident to lighterage as against the direct transfer of foreign freight over railroad tracks at other ports, is absorbed by the rail carriers within the free lighterage zone. Less than carload export and import freight is trucked between railroad stations and piers at New York and the extra expense incurred is not absorbed within the freight rates of the carriers. At other ports, too, less than carload freight is usually trucked, and where track connections have not been made, carload shipments may also be trucked to and from the steamship docks. Trucking firms at all ocean ports make a regular business of performing a steamship cartage service. Their charges are usually not absorbed by the carriers unless the trucking service is in lieu of a free lighterage service.

The handling of export freight after delivery at the piers, and its stowage aboard regular steamship lines, is in the hands of the ocean carriers. The Wharfage Department of a line may take direct charge of stowage or, as is more commonly the case, it employs a stevedoring firm, which in turn employs and directs gangs of longshoremen; and imported cargoes are similarly discharged by the steamship line. When the ocean tramp service is employed, cargo loading and unloading by the charterer or owner is definitely stipulated in the charter party, or, if the service is performed by the vessel, the charter specifies the party or parties who shall bear the cost of loading and discharging cargo. When an exporting firm undertakes the operation of a private industrial carrier service it enters the ocean steamship business most directly and makes definite port arrangements for the handling of its cargoes and vessels.

PORT CHARGES

Cargo port charges are frequently a factor of direct importance in foreign trade shipping. The practice of the rail carriers as to switching charges varies. Switching charges are frequently absorbed by the line haul carrier making delivery at the port, but the absorption is not always complete. The carrier's tariffs may provide for partial absorption, any switching charge in excess of a fixed amount per car being charged against the cargo in addition to the railroad freight rate; or switching charge absorption may be made dependent upon the freight rate or revenue earned by the railroads performing the line-haul service to the port of export. Minimum weight limits may also be set in switching tariffs and the practice as to switching absorption may be different for less-than-carload than for carload shipments. As was stated previously, lighterage charges are not always absorbed by the rail carriers. Some carload shipments are not entitled to free lighterage within the free lighterage limits of the port of New York; less-than-carload shipments, if lightered, are subject to an unabsorbed lighterage charge, and shipments of any description lightered elsewhere than within the free lighterage limits are lightered at the expense of the shipper. Drayage or cartage charges, which so frequently arise in transferring less-than-carload shipments in trucks, are an expense item to the shipper varying at different ports and for different descriptions of traffic and lengths of haul.[2] Handling charges covering the loading or unloading of cars are also in many instances absorbed in case of export and import shipments, but uniformity in practice has not been established. As in case of switching charges, the absorption of handling charges may depend upon whether the freight rate received by the railroads yields at least a fixed minimum revenue per 100 pounds or per ton, and special treatment may be accorded to particular commodities, to heavy articles, to shipments not entitled to free lighterage, or to handling at particular wharves or piers. In exporting grain from American ports, a grain elevation charge customarily covering the receiving, weighing, storing for a period not exceeding a fixed number of days, and delivery to vessels is usually charged, and additional charges are assessed if the grain is stored a longer period of time and when mixing, screening, and blowing services are performed.

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[1] Subject to exceptions and regulations set forth in lighterage tariffs.

Charges for the use of wharves and piers vary as to amount and basis, and they, too, are frequently absorbed wholly or partially by the railroads in case of export or import traffic moving over their rails. Terminology is confusing because the terms "wharfage" and "dockage" are sometimes used loosely and interchangeably; but generally speaking the former refers to a charge based on the amount of cargo moving over a wharf or pier and the latter to a charge based on the tonnage (usually net register) of the vessel using a wharf or pier. At some ports the prevailing practice is to charge wharfage, at others to charge dockage, and at still others to charge both wharfage and dockage. Some piers, of course, are leased on a rental basis. As the piers at some ports are variously owned by railroads, industrial concerns, terminal companies, and the public—the municipality, the state, or a public trust—wharfage or dockage charges are not always uniform for all piers within the limits of one and the same port. A wharfage charge based upon cargo may or may not constitute a specific expense to the shipper in addition to his freight charges. In case of export or import traffic moving to and from the port by rail, wharfage is frequently absorbed by the line-haul railroads. At some ports the absorption of wharfage by railroads, however, is limited to shipments originating in or destined to defined inland territories.

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[2] For charges of trucking firms at different ports *see* Corps of Engineers and United States Shipping Board, "Port and Terminal Charges in United States Ports" (1929); also Supplement (1930).

Export and import traffic is subject to varying storage and demurrage rules and charges at the seaboard. The rules governing free time, however, are more liberal than in domestic shipping. The free time allowed at the several ocean ports varies generally from five to thirty days, and at some of them the free period is longer in case of shipments billed on through export bills of lading than on domestic railroad bills of lading. At the North Atlantic ports, for example, fifteen days' free time is granted on exports billed on through export bills of lading via certain specified ocean carriers; when not billed via these ocean carriers and when export traffic is billed to the ports on domestic bills of lading the free time period is ten days either in warehouses or cars. Import traffic is subject to wharf storage charges if held longer than fixed free time storage periods which vary at different ocean ports.

Other port charges that may be incurred in the foreign trade are vessel demurrage, when cargo is shipped in the ocean tramp service; special derrick charges, when heavy machinery or other heavy articles are loaded or discharged; railroad weighing charges, when the shipper requests a weighing or reweighing service; charges for recooperage and for reconditioning bags;

and ocean freight forwarders' charges.[3] Marine insurance, covering cargoes and freight, moreover, requires the payment of insurance premiums.[4] When imported cargoes are entered at the customs house or transported inland under bond the services of a customs house broker are usually needed and the fees collected by him are an additional expense. Dutiable imports are, of course, subject to the import duties imposed by law and collected by the customs service of the Federal Government.[5] When exporting to certain foreign countries, it is necessary to pay the consular fees imposed by foreign governments.

Besides the several port charges based upon export and import cargoes, which are variously paid by exporters or importers or absorbed by rail or ocean carriers, there are many port charges that are regularly assessed against ocean carriers. As was stated in discussing wharfage charges, the practice at some ports is to impose vessel dockage charges in lieu of wharfage, or in addition to wharfage. In case of through foreign shipments such vessel dockage charges may also be absorbed wholly or partially by the rail carriers. Some steamship lines, however, lease wharves or piers on the basis of time rentals. Heavy charges are incurred by foreign trade vessels for pilotage, towage, bunker fuel, ship's supplies, steamship agency, ship brokerage and freight brokerage, and perhaps for drydock services. Additional local port charges may take the form of local health or quarantine fees, charges for running lines, fees for survey of cargo, hull, sails, spars, or rigging, moorage fees for vessels undergoing repairs or lying up, harbor dues or port warden fees, launch hire, watchmen's charges, shipping master's fees, and charges for water, electric current, lumber for dunnage purposes, ballast material and carpenter's services. Federal charges include tonnage taxes, charges for services performed at national quarantine stations, fees for entry, clearance and survey, customs entry stamps, and an immigration service head tax on alien passengers and employees entering the United States. Foreign vessels may also incur consular fees required at American ports by foreign governments.

Although these port charges are incurred by ocean vessels and in the line service are paid specifically by the carrier, except in so far as dockage is sometimes absorbed by railroads, in the chartered steamship services many local port charges are frequently paid by the charterer in addition to the agreed charter rate or rate of hire. Payment by the carrier or charterer is specified in the governing charter party, and shipping firms operating private, industrial ocean services are concerned directly with vessel as well as cargo port charges. Port charges paid by regular lines are a vessel operating expense and as such may influence ocean freight rates, but variations or differences in charges at different ocean ports are not reflected in the ocean freight rates applicable at rival ports. It will be recalled that competitive forces and the principle of charging what the traffic will bear or what will move the traffic, more commonly control specific line freight rates and port adjustments than differences in port charges or other operating expenses.[6]

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[3] *See* Chapter XL.

[4] *See* Chapter XLIII.

[5] *See* Chapter XLIV.

OCEAN TERMINAL FACILITIES

Many of the essential ocean terminal facilities have necessarily been referred to. Wharves and piers, warehouses or sheds, bonded warehouses, lighters and car floats, rail connections of various kinds, trucks for cartage, drydock facilities, fuel terminals, etc., are familiar parts of a large ocean terminal. Less is, perhaps, generally known with reference to the equipment of wharves and piers and the prevailing methods of handling cargo. From this point of view ocean cargo may be divided into two major types: general cargo and specialized bulk cargo. The loading and discharging of general cargo may be accomplished either with the ship's tackle or with wharf derricks, cranes, or other improved land machinery. At American ocean ports the prevailing practice is to depend primarily upon the ship's machinery. More has been accomplished at some of the large European ports in equipping wharves and piers with derricks, cranes and mechanical conveyors for the handling of general cargo.

Ocean cargo vessels are usually equipped with the necessary deck winches, cargo masts, booms, blocks, and ropes or cables, the winches being variously operated by steam, electric, gas, or hydraulic power. The ship's tackle is either depended on entirely in loading and discharging general cargo, or it is used in connection with cargo masts on the wharf or pier, or in connection with electric or other dock winches which are used for loading and discharging vessels and also for handling cargo on the pier. Some ocean vessels are equipped with ship's cranes, but most cargo carriers merely provide the customary serviceable ship's tackle.

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[6] *See* Chapter XLI.

The advantages claimed for wharf derricks and cranes are that the amount of hard labor and the number of longshoremen is reduced; that their point of deposit on the wharf or pier is larger; that they can be used for handling cargo from point to point on the wharf or pier; that they can be used in loading and unloading freight cars if proper track connections are provided; that they are always ready for service, and that at piers that are efficiently equipped and managed the time spent in port by the vessels can be reduced. A special advantage of derricks and cranes, of which many types are in use, is cited at ocean ports handicapped by heavy ocean tides.

The continued use of ship's tackle in loading and discharging general cargo, especially at American ocean ports, is not due entirely to inertia or other reasons that have no bearing upon the merits of wharf derricks and cranes. The overhead or initial expense of installing wharf derricks or cranes, and the necessity of constructing piers of sufficient strength to carry the extra load, and of sufficient width to utilize such appliances effectively are deterrent factors. Many existing piers were built on the assumption that the ship's tackle would be used in loading and unloading; many are too narrow to permit of the effective use of derricks and cranes in handling or moving cargo; others are too narrow to be equipped with railroad tracks for the direct loading and unloading of railroad cars. Nor is there universal agreement as yet concerning the relative time consumed in loading and discharging cargo by means of ship's tackle and wharf derricks or cranes.

A third method of loading and discharging cargo has been adopted at some ports in connection with freight packed in standardized containers or commodities, such as bananas, which are shipped in substantially uniform units. Standardized package freight conveyors again are utilized more commonly at European than American ports. Loading, discharging, wharf handling costs, and time consumed are reduced substantially, and less damage to cargo results. General cargo for the most part, however, is not packed in standardized containers. It is shipped in large and small containers; in boxes, crates, bales, bags, barrels, casks, drums, etc.; in containers of widely varying shapes and dimensions.

Specialized bulk cargo, in sharp contrast with general cargo, is quite generally loaded and discharged and handled on wharves by means of special wharf equipment. Special piers at many ports are equipped with "chutes and pockets, car-dumping machines, movable loading and unloading buckets, electric conveyors, floating tipples, or fast plants of various kinds for loading or discharging coal and ore. Grain is handled in bulk at many points through stationary and floating elevators. Petroleum wharves with special appliances have been erected at various Atlantic, Gulf, and Pacific ports; and at some ports special machinery is used for handling phosphate and fertilizer materials, sand, gravel and other building materials."[7] Cost advantages and saving in time resulting from the equipment of bulk cargo wharves with specialized loading or unloading machinery have long been recognized at all Great Lake and American ocean ports where substantial quantities of bulk cargoes are shipped or received.

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[7] Johnson, Huebner and Wilson, *Principles of Transportation*, p. 522.

CHAPTER XLIII

MARINE INSURANCE AND FOREIGN TRADE

No discussion of the business of foreign trade would be complete without mention of marine insurance. Vessel owners, and investors in steamship properties, exporters, importers, and foreign trade bankers depend upon marine insurance for the elimination or substantial reduction of the risks of ocean shipping and international commerce. Investors would hesitate to invest capital in ships, ocean freight rates would doubtless be higher, and ocean services quite inadequate if ships could not be insured against marine perils, and, in time of war, against war risks. Exporters and importers could not hope to engage extensively in international commerce if they could not insure their cargoes. Marine insurance tends to reduce the margins of foreign trade profits, and to widen greatly the range of wares moving in international trade. It makes possible the sale of goods at lower prices. It facilitates the financing of foreign sales and the extension of credits. A marine insurance policy or certificate is one of the basic documents attached to international bills of exchange or drafts, and, although marine insurance does not imply credit insurance,[1] without protection against the risks of cargo loss or damage the present extensive use of credit would be impossible.

Marine insurance is intended primarily to cover the risks of loss of vessel, cargo, and freight charges. Vessel owners require protection against the loss of their vessels and of freight that has not been prepaid and guaranteed. Obviously, the exporters and importers are benefited by the ability of vessel owners to contract vessel or hull and freight insurance, but their interest in this is an indirect one. Exporters and importers do not themselves carry hull insurance policies unless they undertake the operation of a private industrial steamship service in vessels owned by themselves. Hull insurance, therefore, will not be discussed specifically in this chapter, the purpose of which is to emphasize the direct interest of exporters and importers in marine insurance. This interest obviously centers mainly around marine insurance cargo policies. They may, in addition, wish to insure prepaid or collectable freight, war risks, import duties, profits, or other insurable interests.

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[1] *See* Chapter XXIX.

LIMITED LIABILITY OF OCEAN CARRIERS

The vast cargo marine insurance business that has developed throughout the maritime nations of the world is due in large part to the limited liability assumed by ocean carriers in their bills of lading and imposed upon them by law. No great cargo insurance business has developed in connection with railroad transportation because railroads are exempted from liability for freight losses or damages only in exceptional instances.[2] The ordinary risks of the railroad shipper are covered in the rail carriers' bills of lading.

"The liability of carriers by water, on the contrary is limited greatly both by law and by the contractual provisions of their bills of lading."[3] There is bound to be somewhat of a difference in liability because of a natural difference between dry land and sea transportation. "Act of God" risks, for example, from which the railroads are exempted, are quite different in scope than the "perils of the sea" that play so large a part in marine insurance. The former refer to very unusual occurrences in railroad transportation such as great conflagrations or floods, while the latter are a constant risk in ocean shipping. Perils of the sea include storms and tempestuous waves, fogs, lightning, icebergs, derelicts or other marine obstructions, stranding, foundering, collision with other vessels or with marine structures, and other perils due to the elements. The Harter Act of February 13, 1893, which governs the liability of ocean carriers in case of freight shipments from American ports, provides that carriers by water can be held only under certain conditions, *i.e.:* (1) "negligence, fault or failure in proper loading, stowage, custody, care or proper delivery"; (2) failure "to exercise due diligence, properly to equip, man, provision and outfit" their vessels; (3) failure to exercise reasonable care in making a vessel ''seaworthy and capable of performing her intended voyage.''

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[2] *See* Huebner and Johnson, *The Railroad Freight Service*, Chapter XIV.
[3] Johnson and Huebner, *Principles of Ocean Transportation*, p. 237.

Ocean bill of lading contracts, moreover, are not uniform and several concerted efforts have, therefore, been made to standardize them to a somewhat greater degree and to accord cargo shippers somewhat more protection than was accorded them in the past. The Interstate Commerce Commission in 1922 prescribed a uniform through export bill of lading, Part II of which contains fourteen specific clauses governing the ocean voyage, a fifteenth clause, however, providing that additional clauses of the ocean carrier's customary ocean bill of lading not inconsistent with these clauses shall also be applicable. The United States Shipping Board has also prepared a standard bill of lading for use by Shipping Board vessels, and a third effort was made in a series of international conferences. The result of the conferences was the so-called Hague Rules of 1921, which were later amended in conferences held at London and Brussels in 1922 and at Brussels in 1925. They became known as the Brussels Rules and were adopted in Great Britain in the Carriage of Goods by Sea Act of 1924, but they have not been adopted in the United States.

While those efforts at uniformity were under way the views of shippers with respect to limited liability were freely expressed. Ocean bills of lading, in accordance with the laws governing the liability of ocean carriers, not only exempt the carriers from many of the principal sea risks, but limit their liability on the basis of released values. For many years it was the common practice of many ocean carriers to fix a maximum limit per package of $100. Their maximum liability limit at present is generally higher, the uniform through railroad export bill of lading and the Shipping Board's ocean bill of lading providing for $250 and the Brussels Rules for 100 pounds sterling. A second much-discussed problem centered around the loss, damage, or pilferage of merchandise on steamship wharves. Ocean carriers, in general, are not liable before the cargoes are on the vessel nor after they have been discharged, unless gross negligence can be shown to exist. As this is difficult for the cargo owner to establish, he has, in effect, no real protection unless he contracts insurance covering these risks. Some ocean bills of lading now in use solve this difficulty in part by providing in their bills of lading that the burden of proof shall be on the carrier to show that it was not grossly negligent in its care of cargoes on its wharves. A further risk encountered by the owner of cargoes moving to or from inland points is that between the ocean and inland carrier; while the goods are being transferred from the one to the other, there may be a gap within which neither carrier is liable for loss or damage.

Questions were also raised with reference to ocean carriers' lack of liability in case of errors in navigation, unseaworthy condition of vessel, and barratry. Most ocean bills of lading do not cover these risks to the satisfaction of the cargo owner, whose recourse is to contract marine insurance.

PERILS OR RISKS INSURED AGAINST

Limited carrier liability leaves the ocean cargo owner the alternative of insuring against the many perils that may cause loss of or damage to his cargo. It is readily possible to distinguish a recognized list of perils, some of which are generally covered by marine insurance and others of which are covered when special provision is made in marine insurance policies:

1. Perils of the sea as previously defined are customarily included in marine insurance policies.
2. Fire risks are ordinarily included.
3. "Jettison, or the throwing overboard of part of a cargo or casting away the masts, spars, rigging or fittings of vessels for the purpose of lightening or relieving the ship, in case of storm or accident, for the common good" is usually covered.
4. "Barratry, which includes all forms of fraud and knavery on the part of the vessel's master or crew, such as willful scuttling or abandonment of vessels or theft of cargoes"[4] is usually included in marine insurance policies.
5. Losses caused by pirates, rovers, and thieves are regularly covered, the term theft as used at this point referring to robbery by force as distinguished from clandestine theft or pilferage.[5]

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[4] *Ibid.*, p. 247.

[5] W. D. Winter, *Marine Insurance*, p. 162; United States Bureau of Foreign and Domestic Commerce, Uniform Through Export Bill of Lading, p. 28.

6. War risk, due to acts committed by established governments, referred to in marine insurance policies as perils due to men-of-war, enemies, "letters of mart and countermart, reprisals, takings at sea, arrests, restraints and detainments of all kings, princes, or people," may be included. Special provision may, however, be made for the insurance of war risks, the United States Government during the late War in Europe having established a Bureau of War Risk Insurance, and under the prevailing American interpretation of c.i.f. prices, war risks are not included in the customary marine insurance policy.

7. Risks due to strikes and lockouts are usually excluded from regular policy forms, but may be included by inserting a clause waiving the usual strike and lockout clause and requiring payment of additional premium.

8. Pilferage is now very commonly covered by insurance. The risk of nondelivery due to error in delivery, failure to load or clandestine theft of an entire package is usually not included in pilferage insurance, and requires a special nondelivery clause if insurance is desired by the cargo owner.

9. Perils or risks encountered by cargo owners on shore are to an increasing extent being covered in marine insurance policies. The difficulty of holding the carrier liable while the goods are on the wharf and the possible lack of carrier liability while they are being transferred between the ocean and inland carrier, referred to in discussing bills of lading; and the desire of many shippers to insure their goods wherever they may be during the period of transportation, has increased greatly the scope of marine insurance. Clauses are variously inserted to insure cargoes against specifically named risks while on wharves, motor trucks, railroads, or elsewhere on shore; or against all risks of transportation between point of shipment and destination, certain specified risks only being excluded. Another broad clause, now frequently included in a cargo insurance policy, is the "warehouse to warehouse" clause which covers the goods from the time they leave the shipper's warehouse at the port of shipment and continues "during the ordinary course of transit" until they are delivered at the consignee's warehouses at the destination point.

TYPES OF MARINE LOSSES

The losses that may result from these perils and against which the cargo owner seeks insurance protection may be classified into specific types.[6]

1. When the property insured is totally destroyed or is so damaged as to be of no practical value to the insured the loss is known as an "actual total loss."

2. When the property insured, although not destroyed, is so placed as to be of no actual value to the insured, as when a vessel is hopelessly stranded and the cost of salvaging the cargo would be excessive, a "constructive total loss" occurs.

3. A partial loss may be suffered as a result of the so-called general average rule. The maritime laws of nations ordinarily provide that a loss resulting from the deliberate sacrifice of cargo, vessel, or other property for the common safety and welfare should be divided fairly among all interests that benefited by the sacrifice. Such a loss is known as a "general average loss" and is customarily covered by marine insurance.

4. When, however, a shipper's cargo is damaged by accident, no element of sacrifice for the common good being present, the insurer must bear the loss himself. Such a partial loss is known as a "particular average loss." Marine insurance policies customarily cover such losses only in part or specify that the underwriter shall be free from particular average unless the loss exceeds a specified percentage of the value of the insured property. Should this partial insurance, available at regular premium charges, not be satisfactory to the cargo owner, he may be able to obtain more complete protection upon payment of higher premium rates. The customary practice with reference to particular average losses varies as between different commodities.

5. A partial loss may also result from the payment of salvage, which is the reward granted by law to those saving life and property at sea.[7]

INSURANCE AGAINST LOSS OF FREIGHT

The insurable interest of the cargo owner is not limited to the safety of his cargo; it may include also prepaid freight charges and freight charges collectable on delivery. The term "freight" is in this connection used to designate freight charges, not the cargo that is being insured and shipped. In general, ocean carriers are legally required to fulfill the contract terms of their bills of lading in order to collect or retain the full amount of freight provided for in the bill of lading, but they frequently insert specific clauses which provide that "freight prepaid will not be returned, goods and/or vessel lost or not lost," that "full freight is payable on damaged or unsound goods," and that, under certain conditions beyond the control of the vessel, cargo may be delivered at a point other than the destination specified in the bill of lading.

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[6] *See* Johnson and Huebner, *op. cit.*, p. 248.

[7] *Ibid.*, p. 249.

If freight is guaranteed in this way, the cargo owner may obviously desire to contract freight insurance, and, in the absence of guarantee clauses he may, nevertheless, wish to insure the freight justly due the carrier upon fulfillment of the bill of lading contract. Freight insurance is commonly provided for in the policy that covers the cargo itself. Prepaid freight "cargo and/or vessel lost or not lost," and freight guaranteed even when the cargo is delivered in an unsound or damaged condition, virtually becomes a part of the insured value of the cargo and may be insured as such. Ocean freight that may be collected or retained only in case the carrier fulfills his bill of lading contract, may likewise be covered in the cargo insurance policy "the rate charged on the freight being (in this instance), however, but a fraction, usually one-third of the rate on the goods, in view of the few hazards to which this interest is exposed."[8]

TYPES OF CARGO AND FREIGHT POLICIES AND CERTIFICATES

No standardized form of policy has been adopted in the marine insurance business, the many types in use being evidence of the desire to adapt marine insurance to the varying conditions prevailing in the ocean shipping industry. To begin with, there are numerous types of vessel or hull insurance policies that are not of direct interest to exporters and importers who ship cargoes in regular line or tramp vessels. Then there are "cargo policies" designed to cover cargoes of all kinds or at

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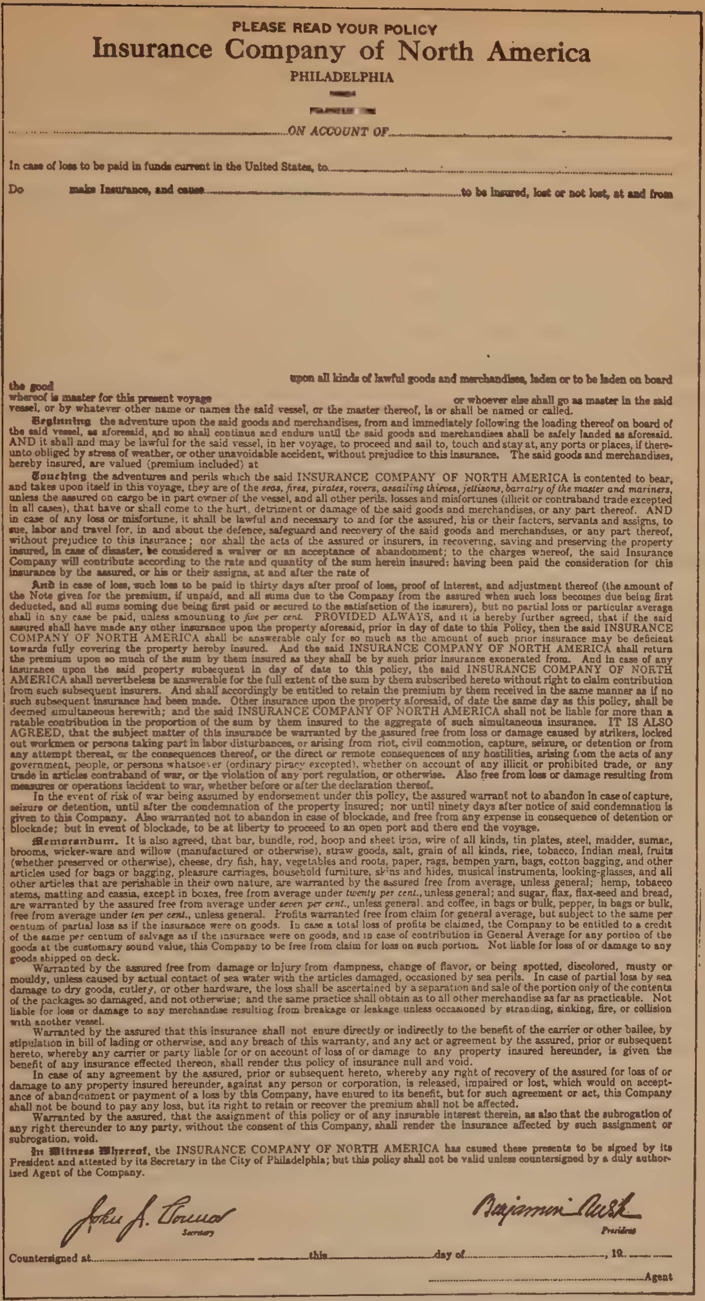
[8] Winter, *op. cit.*, p. 281.



PLEASE READ YOUR POLICY

Insurance Company of North America

PHILADELPHIA

....ON ACCOUNT OF...

In case of loss to be paid in funds current in the United States, to...

Do make Insurance, and cause...to be insured, lost or not lost, at and from

upon all kinds of lawful goods and merchandises, laden or to be laden on board the good

whereof is master for this present voyage or whoever else shall go as master in the said vessel, or by whatever other name or names the said vessel, or the master thereof, is or shall be named or called.

Beginning the adventure upon the said goods and merchandises, from and immediately following the loading thereof on board of the said vessel, as aforesaid, and so shall continue and endure until the said goods and merchandises shall be safely landed as aforesaid. AND it shall and may be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather, or other unavoidable accident, without prejudice to this insurance. The said goods and merchandises, hereby insured, are valued (premium included) at

Touching the adventures and perils which the said INSURANCE COMPANY OF NORTH AMERICA is contented to bear, and takes upon itself in this voyage, they are of the *seas, fires, pirates, rovers, assailing thieves, jettisons, barratry of the master and mariners,* unless the assured on cargo be in part owner of the vessel, and all other perils, losses and misfortunes (illicit or contraband trade excepted in all cases), that have or shall come to the hurt, detriment or damage of the said goods and merchandises, or any part thereof. AND in case of any loss or misfortune, it shall be lawful and necessary to and for the assured, his or their factors, servants and assigns, to sue, labor and travel for, in and about the defence, safeguard and recovery of the said goods and merchandises, or any part thereof, without prejudice to this insurance; nor shall the acts of the assured or insurers, in recovering, saving and preserving the property insured, in case of disaster, be considered a waiver or an acceptance of abandonment; to the charges whereof, the said Insurance Company will contribute according to the rate and quantity of the sum herein insured: having been paid the consideration for this insurance by the assured, or his or their assigns, at and after the rate of

And in case of loss, such loss to be paid in thirty days after proof of loss, proof of interest, and adjustment thereof (the amount of the Note given for the premium, if unpaid, and all sums due to the Company from the assured when such loss becomes due being first deducted, and all sums coming due being first paid or secured to the satisfaction of the insurers), but no partial loss or particular average shall in any case be paid, unless amounting to *five per cent.* PROVIDED ALWAYS, and it is hereby further agreed, that if the said assured shall have made any other insurance upon the property aforesaid, prior in day of date to this Policy, then the said INSURANCE COMPANY OF NORTH AMERICA shall be answerable only for so much as the amount of such prior insurance may be deficient towards fully covering the property hereby insured. And the said INSURANCE COMPANY OF NORTH AMERICA shall return the premium upon so much of the sum by them insured as they shall be by such prior insurance exonerated from. And in case of any insurance upon the said property subsequent in day of date to this policy, the said INSURANCE COMPANY OF NORTH AMERICA shall nevertheless be answerable for the full extent of the sum by them subscribed hereto without right to claim contribution from such subsequent insurers. And shall accordingly be entitled to retain the premium by them received in the same manner as if no such subsequent insurance had been made. Other insurance upon the property aforesaid, of date the same day as this policy, shall be deemed simultaneous herewith; and the said INSURANCE COMPANY OF NORTH AMERICA shall not be liable for more than a ratable contribution in the proportion of the sum by them insured to the aggregate of such simultaneous insurance. IT IS ALSO AGREED, that the subject matter of this insurance be warranted by the assured free from loss or damage caused by strikers, locked out workmen or persons taking part in labor disturbances, or arising from riot, civil commotion, capture, seizure, or detention or from any attempt thereat, or the consequences thereof, or the direct or remote consequences of any hostilities, arising from the acts of any government, people, or persons whatsoever (ordinary piracy excepted), whether on account of any illicit or prohibited trade, or any trade in articles contraband of war, or the violation of any port regulation, or otherwise. Also free from loss or damage resulting from measures or operations incident to war, whether before or after the declaration thereof.

In the event of risk of war being assumed by endorsement under this policy, the assured warrant not to abandon in case of capture, seizure or detention, until after the condemnation of the property insured; nor until ninety days after notice of said condemnation is given to this Company. Also warranted not to abandon in case of blockade, and free from any expense in consequence of detention or blockade; but in event of blockade, to be at liberty to proceed to an open port and there end the voyage.

Memorandum. It is also agreed, that bar, bundle, rod, hoop and sheet iron, wire of all kinds, tin plates, steel, madder, sumac, brooms, wicker-ware and willow (manufactured or otherwise), straw goods, salt, grain of all kinds, rice, tobacco, Indian meal, fruits (whether preserved or otherwise), cheese, dry fish, hay, vegetables and roots, paper, rags, hempen yarn, bags, cotton bagging, and other articles used for bags or bagging, pleasure carriages, household furniture, skins and hides, musical instruments, looking-glasses, and all other articles that are perishable in their own nature, are warranted by the assured free from average, unless general; hemp, tobacco stems, matting and cassia, except in boxes, free from average under *twenty per cent.*, unless general; and sugar, flax, flax-seed and bread, are warranted by the assured free from average under *seven per cent.*, unless general. and coffee, in bags or bulk, pepper, in bags or bulk, free from average under *ten per cent.*, unless general. Profits warranted free from claim for general average, but subject to the same per centum of partial loss as if the insurance were on goods. In case a total loss of profits be claimed, the Company to be entitled to a credit of the same per centum of salvage as if the insurance were on goods, and in case of contribution in General Average for any portion of the goods at the customary sound value, this Company to be free from claim for loss on such portion. Not liable for loss of or damage to any goods shipped on deck.

Warranted by the assured free from damage or injury from dampness, change of flavor, or being spotted, discolored, musty or mouldy, unless caused by actual contact of sea water with the articles damaged, occasioned by sea perils. In case of partial loss by sea damage to dry goods, cutlery, or other hardware, the loss shall be ascertained by a separation and sale of the portion only of the contents of the packages so damaged, and not otherwise; and the same practice shall obtain as to all other merchandise as far as practicable. Not liable for loss or damage to any merchandise resulting from breakage or leakage unless occasioned by stranding, sinking, fire, or collision with another vessel.

Warranted by the assured that this insurance shall not enure directly or indirectly to the benefit of the carrier or other bailee, by stipulation in bill of lading or otherwise, and any breach of this warranty, and any act or agreement by the assured, prior or subsequent hereto, whereby any carrier or party liable for or on account of loss of or damage to any property insured hereunder, is given the benefit of any insurance effected thereon, shall render this policy of insurance null and void.

In case of any agreement by the assured, prior or subsequent hereto, whereby any right of recovery of the assured for loss of or damage to any property insured hereunder, against any person or corporation, is released, impaired or lost, which would on acceptance of abandonment or payment of a loss by this Company, have enured to its benefit, but for such agreement or act, this Company shall not be bound to pay any loss, but its right to retain or recover the premium shall not be affected.

Warranted by the assured, that the assignment of this policy or of any insurable interest therein, as also that the subrogation of any right thereunder to any party, without the consent of this Company, shall render the insurance affected by such assignment or subrogation, void.

In Witness Whereof, the INSURANCE COMPANY OF NORTH AMERICA has caused these presents to be signed by its President and attested by its Secretary in the City of Philadelphia; but this policy shall not be valid unless countersigned by a duly authorized Agent of the Company.

John A. [illegible]
Secretary

Benjamin Rush
President

Countersigned at...this.........................day of.., 19.........

....Agent

FORM XIV. CARGO MARINE INSURANCE POLICY

least a wide range of cargoes;[9] and freight insurance may be included in such policies or it may be provided in separate "freight policies." War risks may also be covered in the regular cargo policies, or in separate "war risk policies." Particular commodities of commerce, moreover, may be covered in "cotton," "coal," "livestock," "lumber," or other special policy forms.

A policy may be either "valued" or "open," the former definitely stating the insured value of the property, while the latter leaves the value to be ascertained in case a loss should occur. A policy may also be of either the "named" or "floating" type. In the former case the name of the vessel in which the cargo is to be transported is definitely stated, while in a floating policy the type or class of vessel, the limits of the voyage and the value of the insured cargo on a valuation basis are specified but the exporter or importer is enabled to insure his cargo before the name of the vessel has been ascertained. "As soon, however, as the name of the vessel employed on the voyage becomes known to the insured, this information, together with any important attending facts, is 'declared' to the underwriters and 'indorsed' in the policy, thus making it a 'named' policy instead of a 'floating' one."[10] Differing somewhat from this "floating" policy is a "blanket"✓policy in which the name of the vessel is also to be ascertained after the insurance is contracted by the shipper, but which calls for the payment of a lump sum premium based upon the "estimated total amount which will come under the protection of the policy during the contract terms,"[11] instead of a separate premium based upon the value of each shipment as it is made. Provision may, of course, be made in a "blanket" policy for a readjustment of premium at the end of the contract term in case actual shipments insured exceeded or were smaller than the estimated total amount provided for in the policy.

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[9] The cargo policy illustrated on page 693 bears the following supplementary clauses:

1.—Warranted that no claim shall be made in General Average arising from the loss or jettison of Merchandise from on deck.

2.—Warranted that in case of partial loss on merchandise, this Company shall have notice of such damage within eight days after the landing of such merchandise.

3.—All risks to be reported as soon as known and amounts declared as soon as ascertained.

4.—This policy shall be deemed continuous but it is understood that either party is at liberty to cancel this policy at any time, on giving thirty days' written notice to that effect, which is not however to prejudice any risk then pending.

5.—Proofs of loss to be authenticated by the Agent of this Company, if there be one where such proofs are taken; otherwise by a Correspondent of the Board of Underwriters of New York, if there be one where such proofs are taken, but if neither is represented, then by some other recognized Insurance Authority.

6.—The sound value at the port or place of destination outward is to be deemed not to exceed the purchasing price at the shipping port, and ten per cent. added thereto, exclusive of duty and freight.

7.—The Company to be entitled to premium on all the risks covered hereby whether reported or not; but should assured fail to report any such risks, or to pay premium or premium note when due, then the policy as to all subsequent risks shall at the option of the Company become null and void.

Floating and blanket cargo policies both are a great convenience in international commerce because they enable merchants to obtain protection for all shipments as they are currently made without negotiating a separate marine insurance policy for each shipment. Their "open" policy becomes a basic policy against which "marine insurance certificates" are issued promptly as their shipments are made. It is these certificates, rather than the underlying policies themselves, that have for years played such an important part in international settlements and credit extension. Serving as negotiable documents, they are regularly attached to international drafts together with the necessary bills of lading and invoices.

Owing to a question of law that arose in England on the score that such certificates were not complete in themselves, a new marine insurance document, known as a special policy, has come into use. This document differs from the certificate in that it contains all of the terms of the open policy against which it is issued and refers to it merely by number. The special policy and the certificate serve the same purpose and both are now used in international commerce. The former is often referred to as a certificate.

MARINE INSURANCE ORGANIZATION AND MANAGEMENT

Only such phases of marine insurance organization and management as are of direct concern to exporters and importers need

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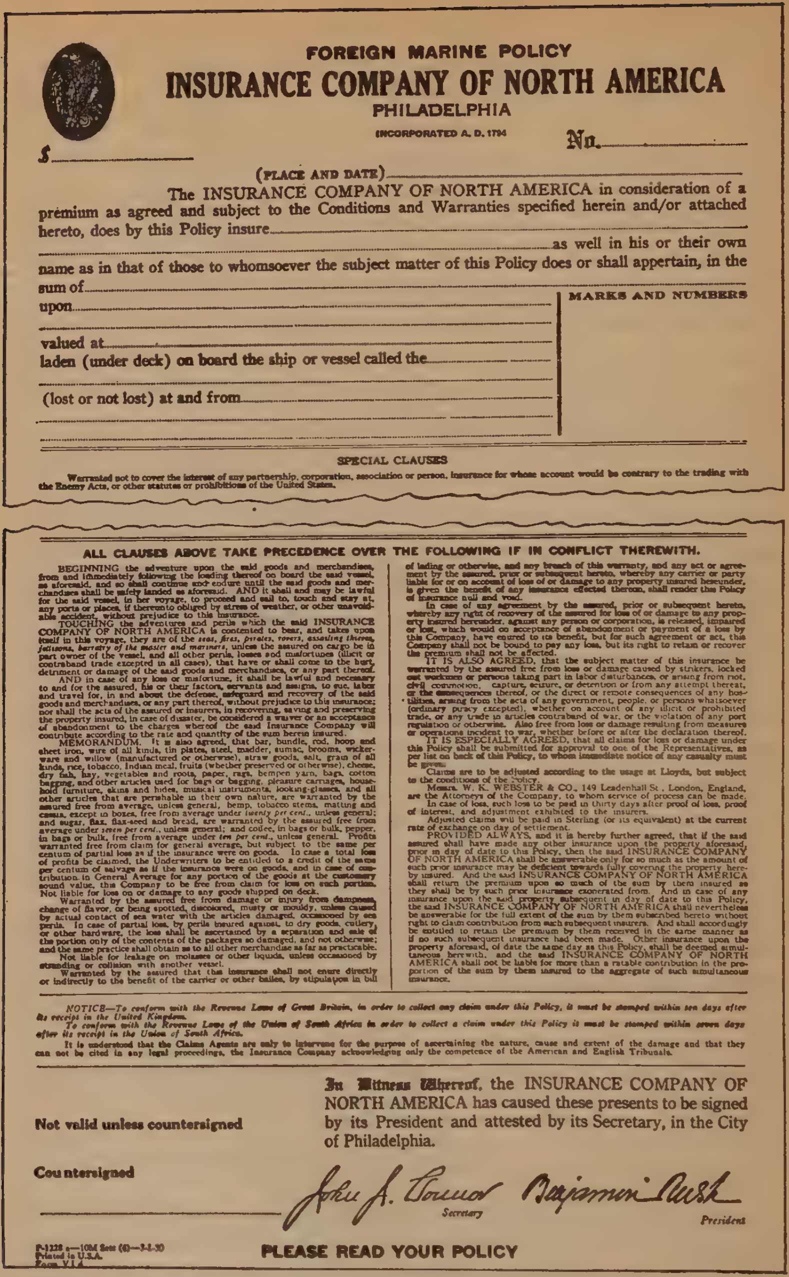
[10] S. S. Huebner, "Marine Insurance in the United States," in *Annals*, XXVI, pp. 241-99.

[11] Winter, *op. cit.*, p. 129.



FOREIGN MARINE POLICY

INSURANCE COMPANY OF NORTH AMERICA

PHILADELPHIA

INCORPORATED A. D. 1794

$ .... No. ....

(PLACE AND DATE) ....

The INSURANCE COMPANY OF NORTH AMERICA in consideration of a premium as agreed and subject to the Conditions and Warranties specified herein and/or attached hereto, does by this Policy insure .... as well in his or their own name as in that of those to whomsoever the subject matter of this Policy does or shall appertain, in the

sum of ....

upon ....

valued at ....

laden (under deck) on board the ship or vessel called the ....

(lost or not lost) at and from ....

MARKS AND NUMBERS

SPECIAL CLAUSES

Warranted not to cover the interest of any partnership, corporation, association or person, insurance for whose account would be contrary to the trading with the Enemy Acts, or other statutes or prohibitions of the United States.

ALL CLAUSES ABOVE TAKE PRECEDENCE OVER THE FOLLOWING IF IN CONFLICT THEREWITH.

BEGINNING the adventure upon the said goods and merchandises, from and immediately following the loading thereof on board the said vessel, as aforesaid, and so shall continue and endure until the said goods and merchandises shall be safely landed as aforesaid. AND it shall and may be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather, or other unavoidable accident, without prejudice to this insurance.

TOUCHING the adventures and perils which the said INSURANCE COMPANY OF NORTH AMERICA is contented to bear, and takes upon itself in this voyage, they are of the *seas, fires, pirates, rovers, assailing thieves, jettisons, barratry of the master and mariners*, unless the assured on cargo be in part owner of the vessel, and all other perils, losses and misfortunes (illicit or contraband trade excepted in all cases), that have or shall come to the hurt, detriment or damage of the said goods and merchandises, or any part thereof.

AND in case of any loss or misfortune, it shall be lawful and necessary to and for the assured, his or their factors, servants and assigns, to sue, labor and travel for, in and about the defense, safeguard and recovery of the said goods and merchandises, or any part thereof, without prejudice to this insurance; nor shall the acts of the assured or insurers, in recovering, saving and preserving the property insured, in case of disaster, be considered a waiver or an acceptance of abandonment to the charges whereof the said Insurance Company will contribute according to the rate and quantity of the sum herein insured.

MEMORANDUM. It is also agreed, that bar, bundle, rod, hoop and sheet iron, wire of all kinds, tin plates, steel, madder, sumac, brooms, wicker-ware and willow (manufactured or otherwise), straw goods, salt, grain of all kinds, rice, tobacco, Indian meal, fruits (whether preserved or otherwise), cheese, dry fish, hay, vegetables and roots, paper, rags, hempen yarn, bags, cotton bagging, and other articles used for bags or bagging, pleasure carriages, household furniture, skins and hides, musical instruments, looking-glasses, and all other articles that are perishable in their own nature, are warranted by the assured free from average, unless general, hemp, tobacco stems, matting and cassia, except in boxes, free from average under *twenty per cent.*, unless general; and sugar, flax, flax-seed and bread, are warranted by the assured free from average under *seven per cent.*, unless general; and coffee, in bags or bulk, pepper, in bags or bulk, free from average under *ten per cent.*, unless general. Profits warranted free from claim for general average, but subject to the same per centum of partial loss as if the insurance were on goods. In case a total loss of profits be claimed, the Underwriters to be entitled to a credit of the same per centum of salvage as if the insurance were on goods, and in case of contribution in General Average for any portion of the goods at the customary sound value, this Company to be free from claim for loss on such portion. Not liable for loss on or damage to any goods shipped on deck.

Warranted by the assured free from damage or injury from dampness, change of flavor, or being spotted, discolored, musty or mouldy, unless caused by actual contact of sea water with the articles damaged, occasioned by sea perils. In case of partial loss, by perils insured against, to dry goods, cutlery, or other hardware, the loss shall be ascertained by a separation and sale of the portion only of the contents of the packages so damaged, and not otherwise; and the same practice shall obtain as to all other merchandise as far as practicable.

Not liable for leakage on molasses or other liquids, unless occasioned by stranding or collision with another vessel.

Warranted by the assured that this insurance shall not enure directly or indirectly to the benefit of the carrier or other bailee, by stipulation in bill of lading or otherwise, and any breach of this warranty, and any act or agreement by the assured, prior or subsequent hereto, whereby any carrier or party liable for or on account of loss of or damage to any property insured hereunder, is given the benefit of any insurance effected thereon, shall render this Policy of insurance null and void.

In case of any agreement by the assured, prior or subsequent hereto, whereby any right of recovery of the assured for loss of or damage to any property insured hereunder, against any person or corporation, is released, impaired or lost, which would on acceptance of abandonment or payment of a loss by this Company, have enured to its benefit, but for such agreement or act, this Company shall not be bound to pay any loss, but its right to retain or recover the premium shall not be affected.

IT IS ALSO AGREED, that the subject matter of this insurance be warranted by the assured free from loss or damage caused by strikers, locked out workmen or persons taking part in labor disturbances, or arising from riot, civil commotion, capture, seizure, or detention or from any attempt thereat, or the consequences thereof, or the direct or remote consequences of any hostilities, arising from the acts of any government, people, or persons whatsoever (ordinary piracy excepted), whether on account of any illicit or prohibited trade, or any trade in articles contraband of war, or the violation of any port regulation or otherwise. Also free from loss or damage resulting from measures or operations incident to war, whether before or after the declaration thereof.

IT IS ESPECIALLY AGREED, that all claims for loss or damage under this Policy shall be submitted for approval to one of the Representatives, as per list on back of this Policy, to whom immediate notice of any casualty must be given.

Claims are to be adjusted according to the usage at Lloyds, but subject to the conditions of the Policy.

Messrs. W. K. WEBSTER & CO., 149 Leadenhall St., London, England, are the Attorneys of the Company, to whom service of process can be made.

In case of loss, such loss to be paid in thirty days after proof of loss, proof of interest, and adjustment exhibited to the insurers.

Adjusted claims will be paid in Sterling (or its equivalent) at the current rate of exchange on day of settlement.

PROVIDED ALWAYS, and it is hereby further agreed, that if the said assured shall have made any other insurance upon the property aforesaid, prior in day of date to this Policy, then the said INSURANCE COMPANY OF NORTH AMERICA shall be answerable only for so much as the amount of such prior insurance may be deficient towards fully covering the property hereby insured. And the said INSURANCE COMPANY OF NORTH AMERICA shall return the premium upon so much of the sum by them insured as they shall be by such prior insurance exonerated from. And in case of any insurance upon the said property subsequent in day of date to this Policy, the said INSURANCE COMPANY OF NORTH AMERICA shall nevertheless be answerable for the full extent of the sum by them subscribed hereto without right to claim contribution from such subsequent insurers. And shall accordingly be entitled to retain the premium by them received in the same manner as if no such subsequent insurance had been made. Other insurance upon the property aforesaid, of date the same day as this Policy, shall be deemed simultaneous herewith, and the said INSURANCE COMPANY OF NORTH AMERICA shall not be liable for more than a ratable contribution in the proportion of the sum by them insured to the aggregate of such simultaneous insurance.

NOTICE—To conform with the Revenue Laws of Great Britain, in order to collect any claim under this Policy, it must be stamped within ten days after its receipt in the United Kingdom.

To conform with the Revenue Laws of the Union of South Africa in order to collect a claim under this Policy it must be stamped within seven days after its receipt in the Union of South Africa.

It is understood that the Claims Agents are only to intervene for the purpose of ascertaining the nature, cause and extent of the damage and that they can not be cited in any legal proceedings, the Insurance Company acknowledging only the competence of the American and English Tribunals.

Not valid unless countersigned

In Witness Whereof, the INSURANCE COMPANY OF NORTH AMERICA has caused these presents to be signed by its President and attested by its Secretary, in the City of Philadelphia.

Countersigned

John A. Donner
Secretary

Benjamin Rush
President

P-1228 s—10M Sets (6)—3-1-30
Printed in U.S.A.
Form V.I.A.

PLEASE READ YOUR POLICY

FORM XV. MARINE INSURANCE CERTIFICATE

be referred to in this volume. Marine insurance is written by marine insurance companies and through underwriting associations, such as the Corporation of Lloyd's, and during war periods perhaps also by Government insurance bureaus especially organized to insure war risks. The companies insuring marine risks include both stock companies and mutual companies. In 1921 the companies operating in the United States were banded together into marine insurance syndicates more adequately to provide protection for American merchant vessels. Syndicate A was intended primarily as a hull inspection agency but later became part of the newly organized United States Salvage Association. Syndicate B was organized to insure in American companies the interest of the Government in vessels sold to private steamship companies, but became inactive when the Merchant Marine Act of 1928 provided for the creation of Government insurance funds. Syndicate C provides hull insurance on iron and steel ocean steamships of American registry and on the equity of steamship companies purchased from the Government.

The Corporation of Lloyd's or "Lloyd's Association of Underwriters" continues to share the marine insurance business of the United States with the several marine insurance companies operating in this country. It acts as an insurance exchange for a large group of underwriters and also as a shipping news agency. Its publications include *Lloyd's List,* in which current shipping news is published daily; *The Index,* in which information concerning particular vessels is posted; a *Register of Captains,* which sets forth the records of the masters of British vessels, and a *Record of Losses* or "black book."

Several types of service associations or agencies are provided to facilitate the business of marine insurance. Classification societies issue rules for the construction of vessels, and provide surveyors to inspect construction under way, and they publish records in which vessels are assigned a "class," and other definite data as to their construction, engines and boilers, nationality, hailing port, age, place of construction, ownership, etc., is stated. The Society of Lloyd's Register, which publishes *Lloyd's Register of British and Foreign Shipping,* and the American Bureau of Shipping which publishes the *American Record* are the two principal classification societies operating in American shipping, but there are rival organizations in several other countries.

As the "class" assigned to a vessel by a classification society cannot be followed blindly for insurance purposes, surveyors are employed by underwriters to make current surveys of vessels seeking insurance. Boards of Marine Underwriters have been organized to determine rules for loading grain, iron, coal, petroleum, etc., to inspect the stowage of cargo aboard vessels, and to survey damaged goods and perform other services when losses occur. Salvage associations take charge of, or make arrangements for, the salvaging of vessels and cargo. General underwriters' associations perform the broad function of bringing together underwriters for the purpose of generally promoting their common interests, and, in some instances, of performing special functions assigned to them by their members.

Exporters and importers may negotiate marine insurance either directly with the insurance company or underwriter, or through the medium of a broker. A third channel through which marine insurance may be contracted obtains in the coastwise and Great Lakes trades where some steamship lines quote freight rates that include marine insurance, they in turn protecting themselves in marine insurance policies issued to them by underwriters or insurance companies.

Merchants not infrequently place their marine insurance direct with the company or underwriter, but a vast amount of marine insurance is placed through brokers, who are employed as agents by the assured but receive their compensation from the underwriter in the form of a commission. Being experts, these men are able to give valuable advice to exporters and importers in all matters pertaining to marine insurance, to prepare their applications for insurance accurately and intelligently, and to protect their interests when it becomes necessary to adjust and pay losses.

When a loss occurs, it is, of course, necessary to provide proof of loss and interest. Proof of loss is usually established on the basis of the "note of protest" filed by the master of the vessel upon its arrival, because he fears that cargo may have been damaged or lost; the master protesting that such loss or damage as may have occurred was due to events or causes for which the vessel cannot be held liable. Later, when actual loss or damage is discovered, he files a more detailed "extension of protest." Proof of interest is usually established by producing the bill of lading and invoice and the certificate of insurance, special policy, or marine insurance policy. The ship's manifest, or other documents, may, however, be needed to establish the actual loading of cargo aboard a particular vessel. In matters of this kind the insured exporter or importer may obviously be in need of expert advice and assistance.

He may, similarly, be at a loss as to how the insured value of his cargo shall be determined. In a valued policy, the insured value must be stated definitely, or, in case it is a floating policy, provision must be made for a definite valuation basis. The basis frequently provided is "invoice cost plus 10 per cent plus prepaid or guaranteed freight," premium included. This, obviously, may not cover the full financial loss suffered in case a loss occurs but the need for a definite value or value basis is quite generally recognized. Should prices increase substantially during the period of insured transit the 10 per cent allowance may not cover the entire risk. In trades where organized markets readily disclose price fluctuations, insured values are, therefore, at times determined on a flexible basis. A typical cotton policy, for example, contains the following proviso: "Additional amounts to cover advances in market value of the cotton held covered hereunder at rates to be agreed upon. . . ." Should the price of wares not freely sold on open markets increase beyond the value stated in the marine insurance policy, the prevailing practice is to place additional insurance. If the shipper does not take steps to have the original insurance policy amended, the purchaser of the goods may negotiate a new policy specifically covering the additional risk incurred as a result of fluctuating prices.

COLLATERAL READINGS

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WINTER, W. D.—*Marine Insurance* (McGraw-Hill, 1929).

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CHAPTER XLIV

CUSTOMS ORGANIZATION AND PROCEDURE

The United States customs service is administered under the direction of the Secretary of the Treasury. Its activities extend to the jurisdiction of other executive departments, the service being subject to the Department of Agriculture in the enforcement of the laws governing the importation of foods and drugs, to the Secretary of Commerce in the enforcement of the steamboat inspection laws and acts relating to the carriage of immigrant passengers, and to the Secretary of Labor in the collection of the head tax on immigrants and the fines imposed under the immigration laws.

The general duties and powers of customs officers, in addition to those mentioned, are set forth in the United States Customs Regulations and include the documenting of American vessels, the exclusion of unauthorized vessels from the coastwise trade, the collection of tonnage duties, the entry, appraisement and warehousing of imported merchandise, the collection of duties on imports, the payment of drawbacks, the compilation of statistics of commerce and navigation, the enforcement of the laws for the detection and prevention of smuggling and other customs frauds and the execution of such regulations as the Secretary of the Treasury may establish under statutory laws.

Organization and Operation of the United States Customs Service.—An Assistant Secretary of Treasury is in charge of the Bureau of Customs, which was established by Congressional Act of March 3, 1927. Under the Assistant Secretary comes the Commissioner of Customs, then an Assistant Commissioner, and three Deputy Commissioners. The Bureau of Customs is organized into four legal divisions, a division of accounts, a division of personnel, a special agency division and a recently created division of appeals and protests. As prescribed in the regulations of the Secretary of the Treasury, the Bureau of Customs prepares the decisions with respect to the administration and interpretation of the customs laws and drafts regulations governing the customs officers; prescribes the forms and records to be employed, and the methods and rules to be followed in the collection of duties and the payment of drawbacks, as well as in the appraisement of merchandise; determines the fact of the depreciation of foreign currency; remits fines and other payments; enforces the law with respect to prohibited imports; and exercises general supervision over the field service.

The special agency division of the Bureau of Customs is the detective branch of the customs service, investigating foreign costs of production and valuation through its agents abroad and probing undervaluation, smuggling, and other customs frauds. It also investigates drawback allowances and claims and supervises the Customs Information Exchange, including the Anti-Dumping Unit at New York. The Exchange acts as a clearing house for information relating to the valuation and classification of similar merchandise imported at the different American ports, thereby providing some degree of uniformity, and it distributes the valuation and cost reports prepared by the customs attachés abroad. The division of appeals and protests, as necessitated by the Tariff Act of 1930, handles protests, complaints and appeals of American manufacturers, producers, wholesalers or labor organizations as to alleged dumping of foreign merchandise and as to alleged undervaluation or underassessment of imported wares; and handles matters involving countervailing duties, bounties and other subjects.

The United States customs service is divided into forty-eight customs districts covering the entire country as well as Porto Rico, the Hawaiian Islands, and Alaska. Each district is in charge of a collector located at the headquarters port and he also supervises the customs service at the minor ports included in the district. At seven headquarters ports, namely, Boston, New York, Philadelphia, Baltimore, New Orleans, San Francisco, and Chicago, comptrollers of customs are stationed. These officers, formerly known as naval officers, examine the collectors' accounts of receipts and disbursements of money and of receipts and disposition of merchandise; they verify the assessment of duties and the allowances for drawback, and, in case of disagreement with a collector, they report the facts to the Secretary of the Treasury. Each comptroller of customs is assigned a number of customs districts in which he is to exercise these auditing functions. At the seven ports named, moreover, surveyors are placed for the purpose of supervising the loading and unloading of vessels and the determination of quantities of merchandise carried. At the other ports and also assisting the surveyor are inspectors.

Before proceeding further with a personnel description of the customs service, we shall briefly outline a functional set-up in which the names of other officers, together with their powers and duties will appear. When a vessel arrives at an American port from a foreign country, the master is required to report the fact of arrival within twenty-four hours to the nearest customhouse and within forty-eight hours to make formal entry of the vessel. Immediately upon arrival, moreover, the master is to mail or deliver a copy of the ship's manifest to the comptroller of customs in charge of the particular district. Formal entry consists of depositing at the customhouse in the case of an American vessel, the crew list, register or document in lieu thereof, manifest, clearance papers and bill of health. Foreign vessels are not required to produce a crew list and in lieu of the register may, under certain conditions, present a certificate of the consul of the nation to which the vessel belongs that the register or similar document has been deposited with him. The master may then obtain a permit to unlade, the collector generally assigning inspectors to examine the cargo and to superintend the unloading. Ten per cent of the number of packages of identical goods contained in an imported shipment, subject to a minimum of one unit, are transferred to the public stores for examination and appraisal, unless a smaller proportion is considered adequate. The balance of the shipment may be obtained by the importer but it is subject to recall until final liquidation is completed.

The importer or his broker may now "enter" the shipment by filing the necessary documents. These are (1) the commercial invoice containing complete details of the shipment as stipulated in Section 481 of the Tariff Act of 1930; (2) certification of the invoice, in case it exceeds $100.00 in value, by the American consul or other authorized official stationed in the country of exportation, supporting the accuracy of the statements, especially as related to value, contained in it. This certification is provided on a form known as the consular invoice; (3) the bill of lading; (4) the owner's declaration, under oath, that the prices and all other data in the invoice are correct and that he is willing to produce evidence to support them; (5) the entry. In case any of the first three documents are missing, bonds may be posted for entering the merchandise.

The entry is an exceptionally important document and usually the assistance of a customhouse broker is sought in preparing it. In the entry the importer declares the value of the shipment, indicates the rate of duty and the classification of the merchandise in accordance with the detailed enumeration established by the authorities and specifies the disposition of the goods that he intends to make. If the imported shipment has been sold or quoted in foreign currency, the entry is to also report the value in dollars by converting in accordance with the quarterly values of foreign currencies proclaimed by the Secretary of the Treasury. If no such value is proclaimed or if it varies by 5 per cent or more from the cable buying rate in New York on the day of exportation, then the buying rate is employed. The "consumption entry" is a common method of entering and it indicates the importer's intention of disposing of the merchandise in domestic consumption. In case the shipment enters, say New York, and the importer is located at St. Louis and may therefore desire to clear the goods through the St. Louis customhouse, an "I. T." entry (immediate transportation in bond) is made. A "warehouse entry" enables the importer to place the shipment in a bonded warehouse and when he later decides to withdraw it, entry is made according to whether the shipment is to be moved to another customs district, or to be reëxported or to be brought into domestic consumption. The question of bonded warehousing and drawbacks will be discussed below. When making entry, the importer or his broker deposits at the customhouse the estimated amount of the duty to be incurred, and, when finally liquidated, refund may be made or additional payment required. If entry is not made within forty-eight hours, Sundays and holidays excluded, the merchandise is sent under "General Order" to a bonded warehouse or public stores and is held as unclaimed until entry is made. This time limit may be extended by the collector, and in the case of such articles as perishables, or those requiring immediate movement, special delivery permits may be obtained before making formal entry. Goods that remain in warehouse for one year without being entered are considered abandoned.

The portion of the shipment that has been retained by the customs is in the hands of the appraiser for the determination of the value. The appraiser also ascertains the quantities of merchandise and the accuracy of the invoice and describes "the merchandise in order that the collector may determine the dutiable classification thereof." At large ports, assistant appraisers are assigned for the appraisal of a limited number of types of merchandise only. At New York the appraiser's office consists of seven commodity divisions, an administrative division, and a customs guards and delivery division. One assistant appraiser is in charge of valuing silk and wool textiles, another of cotton, linen, embroideries, laces, and hosiery, and so on. In case packages contain several articles dutiable differently, the shipment may be assessed at the rate applicable to the highest dutiable product in the package. By separating the different articles, the importer may usually avoid this assessment.

The customs value determined for imported merchandise may be (1) the foreign value or the export value, whichever is higher; (2) the United States value, in case the appraiser finds that neither of the above can be ascertained; (3) the cost of production, in case none of the former is ascertainable; (4) the American selling price of a comparable domestic article, in certain cases.

The foreign value is the market value or price of the merchandise packed ready for shipment at the time of exportation to the United States, "at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade—"[1]

The United States value is "the price at which such or similar important merchandise is freely offered for sale, packed ready for delivery, in the principal market of the United States to all purchasers, at the time of exportation of the imported merchandise, in the usual wholesale quantities and in the ordinary course of trade, with allowance made for duty, cost of transportation, and insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission not exceeding six percentum—or profits not to exceed eight percentum and a reasonable allowance for general expenses, not to exceed eight percentum—''[2]

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[1] Tariff Act of 1930, Section 402c.

Cost of production is the sum of (1) the cost of material and of fabrication, etc., ''at a time preceding the date of exportation of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business; (2) the usual general expenses (not less than ten percentum of such cost) in the case of such or similar merchandise; (3) the cost of all containers and coverings—and all other costs—incident to placing the particular merchandise—in condition, packed ready for shipment to the United States; and (4) an addition for profit (not less than eight percentum) of the sum of the amounts found under—(1) and (2)''—above ''equal to the profit which ordinarily is added in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the production or manufacture of merchandise of the same class or kind.''[3]

The American selling price of an article produced or manufactured in the United States is ''the price, including the cost of all containers and coverings—and all other costs—incident to placing the merchandise in condition packed ready for delivery, at which such article is freely offered for sale to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities in such market, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise when sold in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article.''[4] The American selling price is employed when the rates of duty that have been changed under the flexible provisions of Section 336 in order to equalize the differences in the cost of production of certain articles here and abroad do not equalize the difference. The higher basis of valuation (American selling price) may then be imposed in connection with the altered duty. The appraiser reports to the collector the value of the merchandise in accordance with these provisions, and liquidation may now be made. In the case of goods dutiable on the ad valorem basis, this consists of computing the amount of duty payable by applying the percentage of duty according to the classification of the merchandise, to the value. In the case of specific duties, a simple computation is made.

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[2] *Ibid.*, Section 402d. [3] *Ibid.*, Section 402f. [4] *Ibid.*, Section 402g.

Flexible and Retaliatory Provisions.—The rate of duty may not be as indicated in the tariff law, as provision is made in the various administrative sections of the Tariff Act of 1930 for changes in the established bases. The United States Tariff Commission is directed to investigate differences in the costs of producing articles in the United States and in the principal competing country. In order to equalize such differences, the President may, upon recommendation of the commission, increase or decrease the rate of duty or change the classification in such way as to cause an increase or decrease in duty amounting to not more than 50 per cent. It will be recalled that if differences in the costs of production are not equalized in this manner, the altered duty may be levied on the American selling price. Under Section 338, provision is made for combating discriminations by foreign countries against United States commerce.[5] Under Section 337, unfair practices and methods of competition in the import trade, such as are intended to injure an American industry or to prevent the establishment of an American industry or to restrain or monopolize trade in the United States, are met by the exclusion of such merchandise from importation into this country. The United States Tariff Commission is directed to assist the President in investigations leading to such findings. Under the Anti-Dumping Act of 1921, which is retained in the Tariff Act of 1930, additional duties may be levied in the case of dumping, the amount of the duty being the difference between the foreign market value and the price at which the same goods are sold for exportation to the United States. Section 303 provides for the collection of "countervailing duties" equal to the net amount of grants or bounties paid by any foreign business concern or government for the production or exportation of any article that enters the

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[5] *See* Chapter IV.

American import trade. They are levied in the case of dutiable articles only and are in addition to the regular duties.

Customs Penalties and Controversies.—Additional duties may be incurred in case of undervaluation by the importer in the entry he has filed. If the final appraised value of merchandise exceeds the declared value, one per cent additional duty is levied for each one per cent of the excess, subject to a maximum penalty of 75 per cent. However, if the duty assessed under the final appraised value is no greater than would have been incurred under the declared value (as would be the case with free goods), additional duties are not imposed. The importer who incurs additional duties may appeal to the United States Customs Court at any time after the final appraisal and within sixty days of liquidation and if the Court holds the undervaluation to have been unintentional, refund is made. If the appraised value is more than 100 per cent in excess of the declared value, fraud is presumed and the merchandise is seized by the customs.

The United States Customs Court, formerly the United States Board of General Appraisers, with headquarters at New York, consists of nine judges appointed by the President. The Court functions in three divisions of three judges each and individual judges are assigned to decide many questions. The docket of the Court sets the time for hearings by each judge individually and by divisions at various ports throughout the United States. Section 518 of the Tariff Act of 1930 gives to judges and to divisions the power of judges of United States District Courts with respect to calling witnesses, keeping records, preserving order, and punishing contempt.

Controversies between the importer and the collector over valuation, classification, and other customs matters are common and a fixed procedure is specified in the law. In case of disagreement over value, appeal for reappraisement may be filed with the United States Customs Court within thirty days by the importer and within sixty days by the collector. One judge is assigned to conduct reappraisement and both parties may be heard during the proceedings. The judge renders his decision in writing, together with the reasons for his stand. Appeals from this decision may be made by either the collector or the importer within thirty days from the date it was filed with the collector. The application is assigned to a division of three judges and the decision rendered is final and conclusive "unless an appeal shall be taken by either party to the Court of Customs and Patent Appeals upon a question or questions of law only—"

The Court of Customs and Patent Appeals, the name adopted on March 2, 1929, consists of five judges appointed by the President of the United States and maintains headquarters in Washington, D. C. Appeals to this court may be made within sixty days after the decision of the United States Customs Court. According to Section 198 of the Judicial Code, the Court of Customs and Patent Appeals is to review the case and then remand it to the Customs Court for "further proceedings to be taken in pursuance of such determination."

Controversies also occur over the decisions of the collector relating to the rate and amount of duties chargeable, drawback claims, exclusion of merchandise from entry or delivery, and liquidation or reliquidation. In questioning such decisions, the importer may, within sixty days, file a protest with the collector, setting forth specifically the reasons for objecting. The collector then reviews his decision within ninety days and he may modify it. The importer may protest in the same manner as originally against the modified decision. If the collector affirms his original decision, or if the importer still protests against the modified decision, the case is forwarded by the collector to the United States Customs Court. Further appeals may then be carried to the Court of Customs and Patent Appeals. Finally, cases may be taken to the Supreme Court for review, Section 647 of the Tariff Act of 1930 removing the former restrictions on the legal subject matter to be reviewed by the Supreme Court. In cases presented to the Customs Court, the importer files his protests and appeals with the collector who forwards them to the Court. Moreover, the importer is required to have complied with the provisions of existing decisions before appeals may be made. Thus, if he questions the duty chargeable, he must first pay the amount set before an appeal will be validated, and if he is sustained, refund is made.

American manufacturers, producers, or wholesalers engaged in producing or handling merchandise that is also imported may file complaint with the Secretary of the Treasury whenever they believe the classification, valuation, or duty assessed on the imported merchandise is too low or is improper. If their contention is not sustained by the Secretary of the Treasury, or, in the case of valuation, by the appraiser, appeal may be carried to the customs courts as previously described. In such proceedings, the importers affected are to be informed and they may appear to defend their position.

Protests or appeals under any subject and by any party that are of such a nature as to be considered frivolous incur the payment of a fine ranging from $5.00 to $250.00.

Smuggling, which is the failure to declare merchandise, the use of false, forged, or fraudulent invoices for customs purposes, and the importation of merchandise contrary to law is a customs fraud and is punishable under the Tariff Act. In all litigation proceedings the United States Government is represented by an Assistant Attorney General.

In all of the routine associated with the entering of merchandise as well as in controversies that may ensue, the importer may engage the services of technical experts. Customhouse brokers take over for their clients all of the details of customs procedure, preparing the entry blank, filing it together with all other necessary documents, advancing the estimated duties and other costs (when proper credit arrangements have been made), advising them as to the advisability of protesting or appealing decisions, arranging for the delivery of merchandise, and generally safeguarding the interests of their clients. Customhouse brokers are required to be licensed under rules and regulations prescribed by the Secretary of the Treasury. Customs attorneys represent their clients in the conduct of proceedings before the customs and other courts and they must be enrolled by a committee on enrollment and disbarment in the Treasury Department.

BONDED WAREHOUSES AND DRAWBACKS

As importers are not always desirous of paying duties and taking possession of their imported merchandise immediately after its arrival, and, as some of it may be reëxported, provision is made in the tariff act and customs regulations for the storage of imports in bonded warehouses and for the payment of drawbacks. Bonded warehouses are operated, and drawbacks or refunds of paid duties in whole or in part are made, under strict Government supervision and control.

Bonded Warehouses.—The Tariff Act of 1930 makes provision for "private bonded warehouses," bonded for the storage of merchandise owned by or consigned to owners or proprietors; "public bonded warehouses," bonded for the storage of imported merchandise generally; and "public stores," owned or leased by the Government itself for the storage of imported merchandise for which final release permits have not been issued. It further distinguishes between bonded warehouses for storage; bonded warehouses for repacking, sorting or cleaning; and bonded warehouses in which manufacturing is permitted. More detailed subdivision into eight defined classes has been provided for in the customs regulations, and it is presumed that a classification similar to this will be continued under the recently enacted Tariff Act of 1930.

In general, all bonded warehouses are under bond satisfactory to the Secretary of the Treasury. They are in charge of an officer of the customs who, jointly with the proprietor of the warehouse, has custody of all stored merchandise, and whose compensation and that of other customs employees is reimbursed by the proprietor. Their conduct, management, and operation are governed by detailed customs regulations; vessels delivering imported merchandise to them are subject to all usual formalities and requirements, and cartage is restricted to licensed and bonded cartmen. Imported merchandise may be withdrawn (1) for consumption upon payment of import duties and accrued charges, or (2) for transportation and exportation to a foreign country or for transportation and shipment, without payment of duty, to the Virgin Islands, American Samoa or Guam, or (3) for transportation and warehousing at another port.[6] If import duties have been paid on stored merchandise they may, upon exportation to a foreign country or shipment to the islands referred to, be refunded in the form of a 99 per cent drawback. A storage time limit of ten months for grain and three years for other merchandise is fixed in the tariff act. Imported merchandise stored in bonded warehouses, moreover, unless by special authority of the Secretary of the Treasury, may not be withdrawn "in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity not less than one ton weight," and it shall be withdrawn "in the package in which imported unless, upon application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer same."[7]

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[6] Tariff Act of 1930, Section 557.

In certain bonded warehouses, especially authorized for that purpose, however, importers may, under customs supervision provided at the expense of the warehouse proprietor, clean, sort, repack, or otherwise change the condition of their merchandise. They may not engage in manufacturing in such warehouses, but the scouring or carbonizing of wool is specifically considered not a process of manufacture.

Certain other warehouses, subject to even stricter customs supervision and more exacting regulations are designated as "bonded manufacturing warehouses."

> All articles manufactured in whole or in part of imported materials, or of materials subject to internal revenue tax, and intended for exportation without being charged with the duty and without having an internal revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six. . . .
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> Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be exported directly therefrom or shall be duly laden for transportation and immediate exportation under supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps. . . .
>
> Articles or materials received into such bonded warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port. . . .[8]

The manufacture of distilled spirits from grain, starch, molasses, or sugar in bonded warehouses is prohibited, and flour is accorded special treatment in that a duty on imported wheat must be paid "equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.'' Only a few exceptions are made to the general rule that manufacturing in bonded warehouses is to be exclusively for export. ''By-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses . . .'' may be withdrawn for consumption upon payment of duty; cigars manufactured wholly of tobacco ''imported from one country,'' may also be withdrawn for consumption upon ''payment of the duties on such tobacco in its condition as imported,'' and upon payment of ''the internal-revenue tax accruing on such cigars in their condition as withdrawn.''

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[7] Tariff Act of 1930, Section 562.
[8] Tariff Act of 1930, Section 311.

Government supervision in all instances is at the expense of the warehouse proprietor; careful accounts of all goods delivered to the warehouse must be kept by the collector making delivery; sworn monthly returns of all imported merchandise used in the manufacture of exported articles, verified by the customs officer in charge, must be made by the manufacturer; and the warehouse proprietor, before beginning business, must file an advance list of all articles intended to be manufactured and ''state the formula of manufacture and the names and quantities of the ingredients to be used therein.''

Special provision is made for ''bonded smelting warehouses.''[9] The plants of manufacturers engaged in smelting or refining ores or crude metals may, upon giving satisfactory bond, be designated as such, and they may then receive imported ores or crude metals from the vessels or other vehicles in which they were imported or from a bonded warehouse, and smelt or refine them ''together with ores or crude metals of domestic or foreign production.'' The bonds required in such warehouses ''shall be charged with a sum equal in amount to the regular duties which would have been payable on such ores and crude metals if entered for consumption at the time of their importation,'' but when equivalent quantities of refined or smelted metal (with allowance for wastage) are exported or are delivered to a bonded manufacturing warehouse, the charges against the bonds are canceled. They may also be withdrawn for domestic consumption but in this case the charges against the bonds are canceled only upon payment of the ''duties chargeable against an equivalent amount of ores or crude metals from which said metals would be producible in their condition as imported.'' Bonded smelting warehouses are operated under strict customs supervision and are subject to detailed regulations.

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[9] Tariff Act of 1930, Section 312.

Drawbacks and Refunds.—Imported merchandise stored in a bonded warehouse, being in the custody or control of the Government, may be held there and later reëxported without payment of import duties, and any merchandise stored in such warehouse upon which duties have been paid may be reëxported under a drawback privilege which entitles the exporter to a refund of 99 per cent. The problem of obtaining a drawback or a remission of duties on reëxported imports that have not remained in the custody or control of the Government is necessarily more complicated. The Tariff Act of 1930 contains the general proviso that (Section 558):

> no remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed on the exportation of any merchandise after its release from the custody or control of the Government except in case of the exportation of articles manufactured or produced in whole or in part from imported materials, or not conforming to sample or specifications on which a drawback of duties is expressly provided for by law.

Section 313 specifically authorizes drawbacks or refunds on merchandise that has been released from the custody or control of the customs authorities and on which import duties have been paid, as follows: (1) a drawback of the full amount of import duties, less 1 per cent, is permitted when articles manufactured or produced in the United States with the use of imported merchandise are exported within a period of three years, ''except that such duties shall not be so refunded upon exportation of flour or by-products produced from wheat imported after ninety days after the date of the enactment of this Act.'' In the case of imported duty-paid sugar or nonferrous metal, or ore containing such metal, a substitution of domestic merchandise of the same kind and quality is permitted within a period of one year, subject to the proviso that the total drawback allowed upon exportation of the manufactured article ''may not exceed 99 per cent of the duty paid on such imported merchandise.'' (2) A drawback of 99 per cent is granted on the reëxportation of imported merchandise not conforming to sample or specifications, provided they are returned to customs custody for exportation within thirty days after their release from customs custody. (3) Subject to special requirements and conditions, import duties paid on salt used in curing fish are remitted; and those on salt used in curing meats for exportation are remitted in amounts not less than $100. (4) Section 313 also specifies that the drawback privilege shall apply to imported materials used in constructing and equipping vessels built for foreign account and ownership, "notwithstanding that such vessels may not within the strict meaning of the term be articles exported." (5) A drawback of the amount of internal revenue tax found to have been paid is granted upon the exportation of flavoring extracts and medicinal or toilet preparations manufactured in the United States in part from domestic alcohol.

Section 308 of the Tariff Act of 1930 provides that certain imported articles "when not imported for sale or for sale on approval" may be admitted into the United States without payment of import duties, under regulations prescribed by the Secretary of the Treasury and under bond for their exportation within a period of six months or within a further period not to exceed six months. The articles to which this privilege is accorded are samples of merchandise; models of women's wearing apparel; "machinery or other articles to be altered or repaired"; articles intended for experimental purposes; automobiles and other vehicles and craft, etc., brought temporarily by nonresidents for touring or to take part in races or other contests; containers for compressed gas, and several others specifically listed in the Tariff Act.

Drawbacks and refunds on imported merchandise that has left the custody or control of the Government are governed by detailed customs regulations. Those applicable to the drawbacks granted on manufactured articles made with the use of imported materials are especially exacting.[10] In 1919 the Tariff Commission reported as follows: "So complicated is the procedure in making claim and proving identity that many producers do not find it worth while to apply for drawback at all"; also that "for the prevention of fraud, the privilege is so hedged about with exacting and intricate regulations that the amount of the drawback very often does not pay for the labor and cost of collecting it.''[11] Ten years later, although certain changes had been made, the United States Shipping Board and the Board of Engineers for Rivers and Harbors of the War Department in a joint report stated that ''the inconvenience entailed in meeting the requirements of the regulations and the delays in securing settlement of claims have induced exporters in many cases to waive their rights to reimbursement of duties.''[12]

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[10] United States Customs Regulations, Chapter XX.

The total drawback paid by the United States Government during the five years 1925 to 1929 was as follows:[13]

1925................	$20,658,167
1926................	13,136,989
1927................	12,481,283
1928................	14,312,426
1929................	13,244,760

During this same period the total reëxport trade was reported by the United States Department of Commerce as follows:[14]

1925................	$91,000,000
1926................	97,000,000
1927................	107,000,000
1928................	98,000,000
1929................	84,000,000

It amounts to from 1.6 to 2.2 per cent of the total export trade of the United States and compares very unfavorably with a British reëxport trade during recent years, ranging from $542,000,000 to $744,000,000 annually,[15] and with a yearly world reëxport trade estimated at four or five billions.[16]

FREE PORTS OR FREE ZONES

It has frequently been charged that the inconvenience, expense, and delay incident to the drawback system as it applies to imports that have passed out of the custody or control of the Government; and the expense and restrictions incident to the storage, repacking, cleaning, mixing, blending, and manufacturing of imported merchandise in bonded warehouses; and their reshipment from such warehouses, greatly handicap the reëxport trade of the United States. To overcome this handicap the establishment of "free ports" or "free zones" has been proposed.

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[11] "Information Concerning Free Zones in Ports of the United States," p. 13, United States Tariff Commission.

[12] Report on Foreign Trade Zones or Free Ports (1929), p. 24.

[13] Annual Reports of Secretary of the Treasury.

[14] Bureau of Foreign and Domestic Commerce, Trade Information Bulletin 684.

[15] Bureau of Foreign and Domestic Commerce, *Commerce Yearbook*, 1929, Vol. II, p. 653.

[16] "Foreign Trade Zones and Free Ports," Board of Engineers for Rivers and Harbors and United States Shipping Board (1929), p. 56.

> A free zone may be defined as an isolated, inclosed, and policed area, in or adjacent to a port of entry, without resident population, furnished with the necessary facilities for lading and unlading, for supplying fuel and ship's stores, for storing goods and for reshipping them by land and water; an area within which goods may be landed, stored, mixed, blended, repacked, manufactured, and reshipped without payment of duties and without the intervention of customs officials. It is subject equally with adjacent regions to all the laws relating to public health, vessel inspection, postal service, labor conditions, immigration, and, indeed everything except the customs.[17]

The many free ports or free zones that have been established in certain foreign countries do not in all instances permit all of the operations referred to in this definition. Many of them do not, for example, provide for the operation of manufacturing plants, and other operations may not be entirely free from customs restrictions. All of them, however, are intended to facilitate the reëxportation of foreign merchandise. The following definition is more general, but it likewise does not apply to all existing free ports or zones:

> A free port is a segregated area in which goods not otherwise prohibited may be unloaded and stored, subject to varying restrictions as to sorting, grading, repacking, manipulation, and manufacture, and in which such goods or authorized manufactures therefrom may be reloaded and shipped to foreign destinations, all without the imposition of the customs formalities and duties applicable to similar goods entering customs territory.[18]

"Free ports" or "free zones" which are segregated areas within or adjacent to ports of entry are to be distinguished from "free trade ports"[19] such as Hongkong, Singapore, Dairen,

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[17] *Information Concerning Free Zones in Ports of the United States*, United States Tariff Commission (1919), p. 8.

[18] *See* "Foreign Trade Zones and Free Ports," Board of Engineers for Rivers and Harbors and United States Shipping Board (1929), p. 2.

[19] *Ibid.*, p. 5.

Aden, and some others, where no, or almost no, import duties are collected. Such ports are free in their entirety. There has, moreover, been little urge to establish free ports or zones in countries such as Great Britain or Holland where only limited tariff schedules apply. Free ports or zones are a device especially adapted to facilitate the reëxportation of foreign products from countries adhering to the protective tariff policy. The list of foreign ports equipped with free ports or zones now includes many ports such as Barcelona, Bilbao, Bremen and Bremerhaven, Cadiz, Copenhagen, Danzig, Emden, Flensburg, Fiume, Genoa, Gothenburg, Hamburg and Cuxhaven, Kiel, Leghorn, Naples, Saloniki, Stettin, Stockholm, and Trieste.[20]

Free ports or zones do not, of course, relieve reëxports and ocean shipping from all restrictions and port expenses. They must be policed and due precautions must be taken to prevent the shipment of dutiable imported merchandise for domestic consumption without payment of the duties lawfully applicable to them, and merchandise unloaded within free zones will be subject to storage and insurance costs and to whatever handling, wharfage, cartage and other charges of this character may be in effect. But some, if not all, of these commercial and port charges should be lower than those customarily incurred under a system of scattered bonded warehouses; and the expenses, inconvenience, and delay incident to the customs requirements and formalities now associated with bonded warehouses and drawbacks should be largely reduced or eliminated. Vessels entering free zones may still be subject to pilotage, public health and quarantine, immigration and passenger landing, dockage, towage, and other port charges and harbor dues, and to harbor regulations of various kinds; but they would be relieved from the present detailed customs regulations governing their entry and clearance and the discharge of imported cargoes.

It is believed, therefore, that free ports or zones would stimulate the reëxport business of American ports. Importers would have a better opportunity to accumulate imported goods within the areas set aside for them. They could store, sort, mix, blend, and repack their merchandise and then reëxport it with a minimum of expense and delay; or sell and ship such portions of it as they may find advisable for domestic consumption. In the latter case they would, of course, be subject to customs regulations and would be obliged to pay import duties on dutiable merchandise. A free zone may eventually develop into a general consignment market, and exporters located within the zone would have at their command a wider selection of imported merchandise with which to fill foreign orders. If manufacturing is permitted within the free zones, industrial concerns using large supplies of foreign materials may find an advantage in locating certain of their plants within the restricted areas for the production of finished products intended primarily for the export trade.

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[20] *See ibid.* for more complete list including minor free ports that have been established abroad and others that have been authorized.

Ocean shipping would also benefit and this in turn would have a stimulating effect upon the reëxport trade, and possibly upon domestic exports. The simplification of customs formalities should enable vessels, within the free zone, to discharge imported cargoes intended for storage or other operation more promptly, and also to transship from vessel to vessel such foreign cargoes as are destined for immediate forwarding to foreign ports. In either case, time in port should be reduced and the vessels should gain substantially from a better turn-around. As most, if not all free zones, would have to be especially created, it is also anticipated that they would be planned with care and be equipped with the most modern piers and cargo handling facilities. Should this happen, ships as well as cargoes would benefit from a saving in time and possibly in costs, and a better vessel turn-around would be anticipated. It has been suggested, moreover, that eventually a better balance between inbound and outbound cargoes would be attained:

> The development of a substantial transshipment business would serve to provide new cargo for ships both inbound and outbound. It should improve the load factor, especially on trade routes reaching the smaller countries, which are sources of important raw materials but which do not now purchase sufficient American goods to give balanced loading. The concentration of foreign goods in United States ports would enable our ships to secure more favorable cargoes to such countries.[21]

It is possible, also, that an effort would be made to keep dockage and other port charges within free port zones at a minimum.

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[21] *Ibid.*, pp. 75-76.

It has, indeed, been suggested that Federal tonnage taxes on foreign trade vessels would not apply within such zones, the supposition being that they will not be classed as ports of entry. There is, of course, no certainty that this policy would be adopted by the United States Government.

The effect of free ports or zones upon imports for consumption and domestic exports as distinct from the reëxport trade has varied at the free ports that have been established in foreign countries. Some of them report a marked effect and others none whatever. The improved steamship services, terminal facilities and facilities for repacking, sorting, etc., and for manufacturing have influenced imports for consumption favorably in some instances, for imports may be reshipped from the free zones to domestic markets under customs supervision and the ocean carriers serving the free zones may materially enhance the shipping facilities of the port as a whole. Domestic exports may likewise benefit somewhat from the resulting improved steamship services, and manufactures produced within the free zones are not necessarily produced entirely from imported raw materials. It should also be recalled that at present manufacturers utilizing foreign materials frequently forego the drawback privileges, that bonded warehouses for manufacturing are not the equivalent of free ports or zones, and that the availability of a wider range of foreign merchandise within these zones may enable an exporter more readily to fill an export order calling for both domestic and foreign commodities. There is always, moreover, the matter of providing a basis for exports. As was stated by the Tariff Commission:

> The business proper to a free zone consists in receiving and manipulating foreign products and reshipping them in the direction and at the time to take advantage of the best foreign markets. This is not only a profitable business, it is also becoming a necessary business to our industrial growth. For however wide the range of goods we produce and however effective our methods of production, we can sell our products to best advantage only when the purchasers are able to pay for them with products of their own. If we do not accept their products, they must sell them in some third country and transfer to us the credit they thus acquire—unless, indeed, they forego buying our goods at all and make their purchases in the country where they make their sales.[22]

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[22] "Information Concerning Free Zones in Ports of the United States" (1919), p. 16.

The establishment of free zones at American ports would undoubtedly stimulate the reëxport trade, and they would probably also benefit foreign trade as a whole to some extent, but their importance should not be overestimated. Domestic exports and imports for consumption have grown and can continue to advance even though free zones are not established, for they are influenced primarily by the many factors, other than customs regulations, that have been discussed throughout this volume and they would at most be affected but secondarily by a free zone policy. The full effect upon reëxports of foreign merchandise from the United States, which is the primary purpose of free zones, cannot be forecast with precision. The experience of foreign countries is not conclusive, for the reëxports of some foreign free ports are very large, while those of others are small. The reëxport trade of any port depends in part upon important factors quite aside from relief from customs formalities and a rigid system of drawbacks. Both reëxports and direct vessel to vessel transshipment depend partly upon the geographic location of American ports with respect to foreign sources of supply and foreign markets.

Attainment of full effect of the free zone policy upon ocean shipping, likewise, depends upon unknown contingencies. Vessels discharging or transshipping cargo within a free zone would undoubtedly be relieved very largely from customs formalities, but many of them will probably be loaded with much cargo intended for domestic consumption. If they discharge this cargo at piers not located within the free zone, the usual customs regulations will apply. Will they discharge cargo both within the free zone and elsewhere? Will they discharge all of their cargo within the free zone? Or will they discharge all of it at the regular piers of the port, the merchandise intended for the free zone then to be transferred to the free zone?

Certain practical difficulties are encountered in the establishment of free zones at American ports. It is not feasible merely to set apart a section of a port that is already occupied by shipping, foreign trading, manufacturing, and other concerns variously engaged in foreign and domestic commerce. In any case, free zones will occasion much new construction. Suitable areas must be located and capital must be provided for the construction of warehouses, terminal facilities, railroad connections, factories, bunker fuel facilities, etc., and it may be necessary in some instances to dredge suitable channels and harbors. The keen rivalry between American ports, moreover, complicates the application of a free zone policy at some ports to the exclusion of others. The selection of a few is met by charges of discrimination, while the establishment of free zones at many ports would multiply construction and maintenance costs and weaken the probability of attaining certain of the benefits expected from a free port policy. In the latter case efforts and cargoes would be needlessly scattered. The plans suggested during recent years vary from general legislation, granting equal privileges to all ports, to the granting of authority only to particular ports after careful investigation of all facts having a bearing upon their probable success as free ports. These difficulties do not seem to be insuperable, nor does it follow that every American port is in a position to establish and maintain a free zone.

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APPENDICES

APPENDIX I[1]

A CLASSIFICATION OF FOREIGN AGENTS

1. RESIDENCE
   - (1) Domestic Agent
   - (2) Foreign Agent
     - (a) Within the foreign country
     - (b) Within one of the foreign countries
     - (c) Without the foreign country or countries
2. NATIONALITY
   - (1) American agent
   - (2) Native agent
   - (3) Agent of third countries
3. TRADE GROUP
   - (1) Manufacturers' agent
   - (2) Importer
   - (3) Wholesaler
   - (4) Wholesale-retail concern
   - (5) Retailer
   - (6) Non-trading concern
4. FIXITY
   - (1) Resident agent
   - (2) Traveling agent
5. BUSINESS ORGANIZATION
   - (1) Corporate
   - (2) Partnership
   - (3) Individual trader
6. IMMEDIATE SALES DESTINATION
   - (1) Merchant agent
   - (2) Commission agent
   - (3) Mixed agent
   - (4) Lessee agent
7. SELLING RIGHTS
   - (1) Exclusive agent
   - (2) Semiexclusive agent
8. LINES HANDLED
   - (1) Agents handling many unrelated lines
   - (2) Agents handling only a small group of related lines
   - (3) Agents handling only one or two commodities
9. STOCK CARRIED
   - (1) Warehousing agent

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[1] Provided by Dr. Ralph F. Breyer.

    - (2) Consignment agent
    - (3) Nonstock agent
10. CREDIT RESPONSIBILITY
    - (1) Del credere agent
    - (2) Modified del credere agent
    - (3) Ordinary agent
11. DIRECTNESS OF RELATIONSHIP WITH EXPORTER
    - (1) Direct agent
    - (2) Subagent
12. BRANCH OF FOREIGN TRADE ENGAGED IN
    - (1) Export agent
    - (2) Import agent
    - (3) Export-import agent
13. SPECIAL TYPES
    - (1) Indent agent
    - (2) Manufacturing agent
    - (3) Two-party agent
    - (4) Transitional agent

APPENDIX II[1]

TYPES OF FOREIGN AGENCY CONTRACTS

I. Mechanical Specialty

Cambridge, Massachusetts.

Subject: Appointment as our Agent in Cuba.

Dear Mr. (Name of agent):

We hereby appoint you our Sole-Agent for the sale of our (*products*) in the Republic of Cuba, in accordance with the terms and conditions set forth in this letter.

1. It is understood and agreed that during the existence of this arrangement you will not sell or offer to the trade any (*products*) or other articles competing with the lines manufactured by our Company, or represent either directly or indirectly another company manufacturing such competing lines.

2. *Prices and Discounts:* It is understood that you are to sell our (*products*) and any other articles that we may manufacture at prices, discounts and terms which are not less than those quoted by us from time to time (unless by our consent to meet special competition or government requirements). We agree to advise you promptly of all changes in prices and discounts, but will accept at existing prices any orders you may have in hand at the time you receive our notification of a change in prices.

From the list prices shown in our catalog No. 22, our discounts are now as follows:

....
....
..........................(Discount Table)
....
....

3. *Payment Terms:* Our regular terms of payment for Cuba to concerns of established credit standing, and provided we have the necessary credit information at hand, are 60 days' sight draft, documents against acceptance. We shall attempt at all times to make our credit policy as liberal as the necessity demands, and to coöperate with you in making these terms acceptable to all concerned.

4. *Delivery Terms:* On orders of $1,000 or more, our terms are f. a. s. steamer regardless of whether they are shipped from Boston or New York. On smaller orders, our terms are f.o.b. factory with cartage

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[1] Provided by Dr. Ralph F. Breyer.

free to steamer at Boston or with freight prepaid to New York City should shipment be made from there. Preference will be given to the United Fruit Line with frequent sailings from Boston.

5. *Credit of Customers:* We expect you to sell only reliable customers upon whom we may depend to accept and pay their drafts promptly. Until we become acquainted with the trade, we should like to have you send with every order your own comments and such information and reports regarding the customer's credit standing as are readily available.

6. *Commissions:* The commission for your services as our agent will be 10% of the net value of all sales which are paid for. This commission will apply on all of the shipments of our (*products*) made either direct to you or direct to the trade in Cuba. It will also be paid on orders which may come to us through local export houses, destinations of which are known to be Cuba. The Commission will not apply on shipments from the factory that are not marked for Cuba, or which, at the time of shipment, are not known to be destined for Cuba even though they are eventually shipped to your territory. Here as in other parts of this agreement our good faith and mutual confidence in one another must be the guiding factor, and it is understood that we are to protect your interests in every way we can in the matter of commission.

Commission will be paid by credits to your account on each shipment and will be remitted to you in accordance with instructions which you give us.

7. Your appointment to act as our Representative will be effective from the date of this letter provided your acceptance is received in writing on or before April 1st, 1924. The period covered by this agreement is one year from that date and thereafter until cancelled as provided below.

This agreement may be cancelled by either party upon giving the other party 60 days' written notice of his intention to cancel. The obligation to pay commission ceases with the termination of this agreement.

8. This agreement is nontransferable.

9. We agree to furnish reasonable quantities of samples and literature without charge and to give you our closest coöperation.

10. It is agreed that you will take orders from wholesalers and we authorize you to give our maximum discounts to bonafide wholesalers on initial orders, even though the total quantity may not be 50,000 pieces. We understand that when you have placed stocks with the principal wholesale houses, you will help them create the demand among the repair shops, dealers and garages.

11. You agree to keep us posted regarding competition, both as to price and quality.

12. You understand that there are many uses for (*products*) outside of the (......................) trade and in accepting this agency

you agree to introduce our (*products*) to the government, railroads and all other possible customers.

The purpose of this agreement is to outline our relations to one another to avoid misunderstanding, but we appreciate that the basis for the agreement itself is mutual confidence in one another, and in offering and accepting it we both agree to care for each other's interests in every way we can during its terms.

Yours faithfully,
"X" MANUFACTURING COMPANY
....

II. NON-MECHANICAL SPECIALTY

STANDARD AGENCY CONTRACT
AGREEMENT

between

THE "Y" IMPORTING COMPANY of (*location of agent*)..........
(hereinafter referred to as the AGENTS)

and

THE "X" MANUFACTURING COMPANY of (*location of manufacturer*) (hereinafter referred to as the manufacturers) ....

....

— — — — —

In consideration of the granting by The "X" Manufacturing Company of the exclusive agency for sales of its (*products*) in (*territory*) during the existence of this contract, (*The "Y" Importing Company*) accept this agency guaranteeing every reasonable effort to promote mutual interests.

The manufacturers agree:

1. To sell their products to (*the agents*) at a discount of (........) from the list prices shown in their current export catalogs on (*products*), these quotations being f.o.b. (cars) (steamer) Boston or New York City, U. S. A. These prices payable in U. S. gold are subject only to such advances as are made to foreign trade in general.

2. Not to sell to any other firm in the above territory at a better discount than (......) on (*products*) without the expressed permission of the agents, and to credit (......) to the agents on such direct consummated sales, commission payable to the agents after payment on such direct sales is received by the manufacturers.

3. To grant (*the agents*) terms of (........) or a cash discount of (........) for payment within ten days from date of invoice on such orders as are accepted by the manufacturers.

4. To allow (*the agents*) the privilege to solicit orders for the "X"

Manufacturing Co. in the above territory at a maximum time of (......) days sight draft attached to bill of lading, it being clearly understood that the manufacturers are in all cases to be the sole judges of credits, and such orders are only to be taken subject to the acceptance of the manufacturers.

5. To coöperate in every possible way in the matter of sales assistance, propaganda material, samples, etc., free of charge, not to exceed (......) in value of the total amount of sales in the year in which such coöperation is given. Advertising matter and samples are to be delivered f.o.b. steamer New York, and it is understood that the manufacturers assume no charges beyond the f.o.b. point.

(*The Agent*) agrees:

1. To give every preference to the sale of the products of The "X" Manufacturing Company, and (to refuse to act as agents for) or (in any way to handle) the products of any competing manufacturer.

2. To sell or purchase for its yearly account the net amounts shown below, viz.:

From Jan. 1st, to Dec. 31st, ($)
" " " " " " ($)
" " " " " " ($)
" " " " " " ($)
" " " " " " ($)

These sales are understood to be actual consummated sales either to (*the agents*) or firms satisfactory to the manufacturers.

3. It is understood that either party shall have the privilege of cancelling this entire agreement by giving to the other six months' previous notice in writing, and that during such six months all the terms of this agreement are to be in force.

Regardless of which party gives notice of cancellation the agents are to refrain from selling competing products for a period of six months from the termination of this agreement and the manufacturers are to pay to the agents (......) of the net amount of their paid sales of (*products*) in the territory previously noted during this six months' period. This is limited, however, to (.....) of the net amount of paid sales during the last six months in which the entire agreement was in force.

4. It is furthermore understood that in case of failure or reorganization of (*the agents*) this agreement will stand void and is to be re-instated with the successors only if mutually convenient.

5. The failure of the agents to reach the amount of sales or purchases stated shall automatically cause the cancellation of this contract, unless otherwise the default be waived by the manufacturers in writing within thirty days from the end of the year in which the failure occurs.

6. It is expressly understood that in order to give The "X" Manufacturing Company the right and opportunity to pass on or to limit credits, any and all orders given to the manufacturers by (*the agents*) either for purchases by the agents or by dealers through them, of the

manufacturers' products, shall be subject in each case to acceptance by the manufacturers.

Witness.................... ....
Witness.................... ....
Witness.................... ....
Witness.................... ....
Date......................... *The "X" Manufacturing Company*
....
President.

III. Automotive

THE "X" MANUFACTURING COMPANY
(*location*)
U. S. A.

THIS AGREEMENT, made in triplicate this (............) day of (............) A.D., 19...., by and between THE "X" MANUFACTURING COMPANY, a Corporation organized and existing under the laws of the State of (........), United States of North America, and having its principal office in (..........), United States of North America (hereinafter called the CORPORATION), AND THE "Y" IMPORTING COMPANY of (*location*) ....(hereinafter called the DISTRIBUTOR)

Witnesseth:

Consideration

1. The Corporation agrees to grant the Distributor the exclusive right to sell (*"X" Manufacturing Company*) Motor Vehicles during the continuance of and pursuant to the provisions of this agreement, in the following described territory: (........................).

Goods and Prices

2. The Corporation agrees to sell to the Distributor (for resale to Dealers or to residents in the above mentioned territory) such (*"X" Manufacturing Company*) Motor Vehicles as are available for shipment to said territory at prices which shall be quoted by the Corporation to the Distributor from time to time, provided the Distributor maintains such a dealer organization as in the opinion of the Corporation is necessary to thoroughly canvass and promote the sale of (*"X" Manufacturing Company*) Motor Vehicles in the before mentioned territory.

The Corporation reserves the right to change the prices of any of its products at any time and in case of any increase or reduction in such prices the Corporation shall not be bound to make an allowance to the Distributor upon any of its products shipped before such changes take effect.

TERMS OF PAYMENT OR FINANCING

3. For the purpose of this standard contract it is understood that all shipments must be preceded by the establishment of irrevocable letters of credit in United States dollars in favor of the Corporation in an incorporated bank or trust company in New York, Chicago, or San Francisco—these letters of credit to be for the full amount of the order, including charges for boxing, freight, handling, insurance, etc. and it is agreed that policies or certificates of insurance shall be acceptable to the Distributor.

The Corporation will consider applications for better terms based upon the Distributor's audited financial statements, credit reports, bank references, the Corporation's past experiences, etc., but each case must necessarily be considered on its own merits.

Unless some special terms have been arranged at time order is placed, it is understood that standard irrevocable terms will apply.

TERRITORY RIGHTS

4. The Distributor agrees not to sell (*"X" Manufacturing Company*) Motor Vehicles outside the Territory described in Paragraph 1 without first obtaining consent in writing from the Corporation.

TERRITORY INFRINGEMENT

5. There is an obligation resting upon each Distributor to confine his sales to his own territory and not to encroach upon the territorial rights of any other Distributor or Dealer. The Corporation will use every reasonable precaution to prevent one Distributor from selling (*"X" Manufacturing Company*) Motor Vehicles in any territory controlled by another, but the Corporation shall not be held liable to the Distributor for any invasion of his territory by another Distributor.

The Distributor agrees for himself and for the benefit of every other Distributor that in the event of a controversy arising by reason of any invasion of his territory by another Distributor, such controversy shall be referred to the Corporation, which shall act in the rôle of arbitrator between himself and the other Distributor, and that the Corporation shall make an award as such arbitrator. The Distributor agrees to abide by the decision of the Corporation in the disposition of the controversy. The Corporation assumes no responsibility with respect to such decision nor with respect to the enforcement thereof.

SALES BY CORPORATION

6. It is mutually agreed that the Corporation shall have the right at any time during the existence of this Agreement to sell direct to any person or corporation or municipality in such District, any and all models of (*"X" Manufacturing Company*) Motor Vehicles handled or dealt in by the Corporation; provided, however, that upon any such models so sold direct, the Distributor shall be paid a commission equal

to ten per cent. of the United States list price, f.o.b. (interior point), in force at time of sale.

The Corporation reserves the right to sell (*"X" Manufacturing Company*) Motor Vehicles direct to the Government of any country, except municipal governments, if such Government elects to place such orders direct with the Corporation, rather than to place the orders through a Distributor, in which event the Distributor shall not be entitled to receive any discount or commission on such sales.

CHANGE IN DESIGN

7. It is mutually agreed that the Corporation has the right to make changes in design or add any improvements on (*"X" Manufacturing Company*) Motor Vehicles at any time without incurring any obligations on the part of the Corporation to install same in (*"X" Manufacturing Company*) Motor Vehicles previously purchased by the Distributor.

SALES AND SERVICE FACILITIES

8. The Distributor agrees to maintain two Trucks for demonstration and display; to maintain a place of business and a modernly equipped salesroom and service station and a sufficient number of efficient mechanics to repair and adjust (*"X" Manufacturing Company*) Motor Vehicles; to furnish gratis to owners of (*"X" Manufacturing Company*) Motor Vehicles such parts as the Corporation may replace or supply free of charge for use thereon; to adopt the service policy of the Corporation as set forth in Addendum A, hereto attached, and which constitutes a part of this Agreement.

The Distributor agrees to establish Dealers in the territory allotted under Paragraph 1 of this Agreement wherever possible and agrees to require the said Dealers to maintain a place of business and a modernly equipped salesroom and service station and a sufficient number of efficient mechanics to repair and adjust (*"X" Manufacturing Company*) Motor Vehicles; to furnish gratis to owners of (*"X" Manufacturing Company*) Motor Vehicles such parts as the Corporation may replace or supply free of charge for use thereon; to adopt the service policy of the Corporation as set forth in Addendum A, hereto attached, and which constitutes a part of this Agreement.

The Distributor agrees that he will purchase from the Corporation and maintain at his place of business a stock of new, genuine (*"X" Manufacturing Company*) Motor Vehicle spare parts sufficient to adequately supply all spare parts needs of (*"X" Manufacturing Company*) Motor Vehicles users in the territory herein-above allotted to him at all times during the term of this Agreement, the value of which stock of spare parts is to be not less than fifty Dollars (United States Currency) for each (*"X" Manufacturing Company*) Motor Vehicle operating in the Distributor's territory. The said parts are to be purchased from the Corporation at the Corporation's current prices and on the same terms of payment as provided in Paragraph 3 of this Agreement. The Distributor also agrees to determine for his own business and to see that his Dealers determine for their business the sales price of such parts by adding to the total actual cost thereof only a fair, normal sales profit.

The Distributor also agrees to require his Dealers to maintain a stock of the said new, genuine (*"X" Manufacturing Company*) Motor Vehicle spare parts adequate to supply all needs of (*"X" Manufacturing Company*) Motor Vehicle users in the Dealer's territory.

The Distributor further agrees to furnish the Corporation on January first of each year a copy of his spare parts inventory, showing the parts numbers, descriptions, models and quantities of spare parts on hand at the time the inventory is taken.

USE OF THE NAME "X"

9. The Distributor agrees not to use the name (*"X"*) as a part of his firm or corporate name nor permit same to be used by his Dealers without first obtaining the written consent of the Corporation and in the event that such privilege is granted, the Distributor agrees upon cancellation or termination of this Agreement to immediately discontinue using the name ("X") and to see that the use of the name (*"X"*) is discontinued by his Dealers.

REGISTRATION OF COPYRIGHT

10. It is mutually agreed that the Distributor will not obtain or attempt to obtain in any country or territory whatsoever, during the continuance of this Agreement or any time thereafter, any right, title or interest, by registration, patent, or otherwise, in or to the trade-name (*"X"*) or any combination of said name or any other trade-mark, name or designation or combination thereof, used or owned by the Corporation or in or to any other trade-marks, names or designations whatsoever used in connection with or to designate any part or parts of such (*"X" Manufacturing Company*) Motor Vehicles; or in or to any designs, improvements or inventions whatsoever embodied in said (*"X" Manufacturing Company*) Motor Vehicles or in any parts thereof whatsoever, except with the consent of said Corporation, and the Distributor hereby expressly waives any right which he may have to do so.

WAIVER

11. The failure of the Corporation to enforce at any time any of the provisions of this Agreement or to exercise any option which is herein provided, or to require at any time performance by the Distributor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity

of this Agreement or any part thereof, or the right of the Corporation to thereafter enforce each and every such provision.

CLAIMS

12. No claims regarding errors in shipments or billing will be recognized by the Corporation unless the same are made within thirty (30) days after receipt of goods in connection with which any error is claimed. Such claims must be supported by an official survey as to condition of packing cases on arrival. The Corporation will not be responsible for any loss or damage of goods in transit.

FILLING ORDERS

13. It is mutually agreed that all orders shall be filled by the Corporation as rapidly as practicable, consistent with the requirements given the Corporation by the Distributor, subject, however, to delays caused by war, strikes, shortages of labor or material, or any other causes beyond the Corporation's control and that the responsibility of the Corporation for loss or damage to goods ordered shall cease upon delivery to the initial common carrier.

All orders placed with the Corporation by the Distributor under this Agreement shall specify that the goods purchased thereunder are for shipment direct to the Distributor at a foreign destination. In the event, however, that the Distributor should require delivery to be made to his agent within the United States, for subsequent shipment by the said agent, the Distributor agrees to furnish the Corporation with a certificate from such agent showing (1) that the goods are purchased either to fill a firm order then held by such agent requiring shipment to a foreign destination, or for shipment or transportation by such agent in due course to himself or to his principal in a foreign country, or that the goods are purchased to fill future orders calling for shipment thereof by the Distributor direct to a foreign destination, and (2) that the goods will be transported to the Distributor at a foreign destination in due course prior to use, re-sale or further manufacture within the United States. In the event of the Distributor's failure to comply with the foregoing provisions of this paragraph, the Distributor will become liable to the Corporation for any manufacturer's tax assessed upon the Corporation by the Government of the United States or of any state or subdivision thereof.

ADVERTISING

14. The Distributor agrees to advertise (*"X" Manufacturing Company*) Motor Vehicles every month or oftener in local newspapers and other local publications, such advertising to be relative to (*"X" Manufacturing Company*) Motor Vehicles exclusively. An allowance of fifty per cent. of the Distributor's expenditure for such advertising will be made to the Distributor by the Corporation, such allowance not to

exceed fifteen dollars ($15.00), (United States currency) for each (*"X" Manufacturing Company*) Motor Vehicle accepted and paid for by the Distributor under this Agreement. All claims made by the Distributor for such allowance shall be made monthly and shall be supported by original receipted bills and copies of the advertisement and other information respecting such advertisement as the Corporation may require. Dates of issue of publication in which the advertisements have been printed must not be detached from the copies of the advertisement sent to the Corporation. In case of termination of this Agreement, all claims for credit for advertising by the Distributor during the life of this Agreement must be made not later than sixty (60) days after date of notice of such termination, otherwise they shall become null and void. The object of this allowance on the part of the Corporation is to create continued and consistent advertising of (*"X" Manufacturing Company*) Motor Vehicles on the part of the Distributor.

DURATION OF AGREEMENT

15. It is mutually agreed that this Agreement shall remain in force until cancelled, or for a period not exceeding five years, subject to the following provisions:

This Agreement may be terminated by either party upon ninety (90) days' written notice, or for any violation hereof by either party, the other party may terminate this Agreement immediately, on mailed or cabled notice, but termination shall not relieve the Distributor of any obligations or liabilities incurred prior to such termination.

The Distributor shall have no right to assign this Agreement or any interest therein without the written consent of the Corporation.

CANCELLATION

16. Cancellation or termination of this Agreement as herein provided shall immediately cancel all orders for (*"X" Manufacturing Company*) Motor Vehicles or parts thereof unshipped at time of notice of cancellation whether or not time for shipment has expired and shall also cancel all Dealers' Sales Agreements under this Agreement.

It is mutually agreed that in the event the Distributor is a copartnership or is incorporated, or is a limited liability company, and disagreements of any nature shall arise between the parties of the copartnership or the officers or managers of the Distributor Corporation whereby the Corporation deems that its interests may be imperiled, or that the particular person in whom the Corporation had special confidence to promote its interests shall sever connections with such copartnership, Distributor Corporation, or limited liability company, or that in the event a Receiver or Trustee is appointed for the Distributor, then the Corporation at its option, may cancel this Agreement forthwith by written or cabled notice to the Distributor.

No Other Agreement

17. There are no other written, printed or verbal Agreements or understandings affecting this Agreement and no alteration or variation of the terms thereof shall be valid or binding upon the Corporation unless in writing and signed by an Executive Officer of the Corporation, as constituting this Agreement.

Interpretation of Legality

18. It is understood that this is a general form of Agreement, designed for use in countries outside the United States of North America, but is to be construed by the laws of the State of (............), United States of North America, and that any provisions herein the performance of which would contravene the laws of the country, state or jurisdiction, where such performance must be made by the Distributor under this Agreement, shall be deemed not to be a part of this Agreement, but in all other respects said Agreement shall continue as written.

Notice

19. It is mutually agreed that any notice provided for in this Agreement must be given either by letter or by cablegram and addressed to the party upon whom said notice is served at the address given in this Agreement or to the last known address to which the Corporation or Distributor may have moved subsequent to the date of this Agreement. That proof of such letter being duly posted or filing of such cablegram with recognized and established cable companies shall be sufficient evidence of such notice.

Translations

20. Inasmuch as this Agreement is printed in three languages, English, French and Spanish, and known as Export Sales Agreement Forms "E," "F" and "S," respectively, the Corporation states the French and Spanish translations have been made by competent linguists but does not guarantee them to be exact and true translations of the English. Anyone signing any of these Agreements agrees that the English text on file in the home office of the Corporation shall control in the event of controversy as to construction or translation.

Distributor Not Corporation's Agent

21. It is mutually agreed that the Distributor is in no way the legal representative or agent of the Corporation for any purpose whatsoever except as expressly stated in this Agreement, and has no right or authority to assume or create any obligation of any kind, express or implied, on behalf of the Corporation or to bind the Corporation in any respect whatever, and the Distributor shall not use the words "agent" or "agency" or words of similar import, in any language, in connection

with the conduct of its business or in the sale of the (*"X" Manufacturing Company*) Motor Vehicles or products.

SIGNATURE REQUIRED

22. This Agreement shall not be valid unless bearing the duly authorized personal signature of the Distributor and also the seal of the Corporation and the signature of an Executive Officer of the Corporation, at the Corporation's Head Office in the City (................), State of (................), United States of North America.

Signed for the Corporation the (..........) day of (..........), 19....

Attest:
THE "X" MANUFACTURING COMPANY
(Corporation)
By............................
(Seal)
THE "Y" IMPORTING COMPANY
(Distributor)
....

Witness:
....
....
(Seal)

The undersigned
recommends that
The "X" Manufacturing Company
accept and sign this Agreement.
....

....

THE "X" MANUFACTURING COMPANY
(*location*)
U. S. A.

Addendum A
Referred to in Paragraph 8

SERVICE POLICY

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1. In the merchandising of Motor Vehicles the importance of "SERVICE" cannot be too strongly emphasized, for on it depends in a large measure, the success of your sales efforts. Efficient SERVICE keeps the owner satisfied and the Motor Vehicle permanently sold. Reputation acquired for prompt SERVICE to (*"X"*) owners cannot but result in increased sales throughout your territory. Keeping faith with (*"X"*) owners, through rendering of SERVICE, not only from a moral standpoint, but from a purely commercial one, is good business.

2. The prospective purchaser of a Motor Vehicle contemplates purchase only because he believes it will be a profitable investment in his business and on this basis the Motor Vehicle must prove itself. Good SERVICE is undoubtedly your very best salesman as it makes the product a desirable investment. Properly handled, SERVICE is not

only a necessity to the owner, but profitable to both Distributor and his Dealers. SERVICE does not imply the giving of something for nothing, but it is the willingness and ability of the Distributor or Dealer to extend consideration, courtesy, parts and labor promptly upon request and at a reasonable charge to the owner. Lacking such SERVICE the owner's investment in the Motor Vehicle is either partially or wholly unprofitable. This in turn vitally affects further sales not only to this particular owner, but others to whom his experience has become known.

AMPLE PARTS STOCK

3. To give prompt and efficient SERVICE you must at all times be in a position to furnish such parts as might be necessary to recondition (*"X" Manufacturing Company*) Motor Vehicles in your territory. Careful attention should be paid to the ordering of parts for this purpose. You should analyze conditions in your territory so as to insure carrying in stock a sufficient quantity of parts to meet the possible requirements for a period of six months.

PARTS INVENTORIES

4. In order that the Distributor may have the advantage of the Corporation's knowledge and experience in the carrying of a sufficient stock of parts to meet the possible requirements for a period of six months, the Distributor should, without solicitation, furnish the Corporation the first of January each year, with an inventory of this parts stock and should, at the request of the Corporation, or its authorized representative, furnish inventory more frequently.

CLAIMS FOR REPLACEMENT OF DEFECTIVE PARTS

5. (*a*) Any claims to be filed with the Corporation for consideration must be filed within three months after delivery of the vehicle to the original purchaser. Such claims must completely cover the information required by the Corporation to enable prompt and proper settlement.

(*b*) The Corporation reserves the right to inspect all parts which are claimed to be defective, and to furnish new parts free of charge, or to reimburse the Distributor their costs (at price F.O.B. [interior point]) only in case the inspection proves that said parts are defective in material or workmanship.

(*c*) It is understood that the Distributor will not return parts to the Factory without written authority from the Corporation, and in such cases, the Distributor shall prepay transportation, insurance charges, etc.

(*d*) Any defective parts which have been replaced by the Corporation, or for which the Corporation has reimbursed the Distributor, will be disposed of at the Corporation's discretion.

(*e*) The above arrangement will not apply to any (*"X" Manufacturing Company*) Motor Vehicles which shall have been altered in any way, so as in the judgment of the Corporation to affect their stability, or reliability or which have been subject to misuse, negligence or accident.

THE "X" MANUFACTURING COMPANY

IV. Motion Pictures

AGREEMENT entered into this (..........) day of (..........) 1923, by and between THE "X" MOTION PICTURE CORPORATION, of (*address*), City of New York, N. Y., U. S. A., hereinafter referred to as the "Producer," and THE "Y" IMPORTING COMPANY of (*location*), hereinafter referred to as the "Distributor,"

WITNESSETH:

WHEREAS, the Producer solely controls the right to distribute the motion picture productions referred to in Article "First" hereof in the territory below mentioned, and

WHEREAS, the Distributor desires to obtain the sole and exclusive license to distribute for exhibition positive prints of said productions, as hereinafter specified, throughout the territory of ....(*territory*).... hereinafter referred to as the "Territory," upon the terms hereinafter more particularly set forth,

NOW THEREFORE, IN CONSIDERATION of the mutual covenants herein contained, the parties hereto agree as follows:

FIRST: The Producer hereby grants to the Distributor an exclusive license to exhibit, or sublease for exhibition, the specific motion picture productions hereinafter named, throughout the Territory. The license as to each such production shall be separate and shall extend for a period of three (3) years from the date of delivery to the Distributor of the first print of each such production, unless the Producer's right of distribution shall sooner terminate.

SECOND: The Distributor agrees to pay to the Producer, at its office at (*address*), New York City, on delivery of the first print of each production, for the license to each such production, the amount set forth as royalty in the following Schedule:

SCHEDULE

NAME OF PRODUCTION	STAR OR PRODUCER	ROYALTY
....	....	....
....	....	....
....	....	....

THIRD: To enable the Distributor to exhibit each such production, and as an incident to said license, the Producer shall lease to the Distributor at least one (1) positive print of each such production and the Distributor shall accept such prints as lessee thereof, for the sole purpose of exercising said license in accordance with the terms and conditions hereof. The Distributor shall pay to the Producer, at the place above specified, on delivery of the prints, as rental for the lease of each such print, a sum equal to 3½¢ per linear foot for each print delivered to the Distributor. If the cost of raw stock to the Producer is increased, or a Tax imposed thereon by the U. S. Government, or on the sale or export thereof, such rental shall be increased by a like amount.

FOURTH: (*a*) The Producer shall deliver to the Distributor, as soon after prints are ordered by the Distributor as prints can be made and delivered, and the Distributor shall order in time to take on or before the 31st day of July, 1926, the number of positive prints of each such production mentioned in Article "Third" hereof.

(*b*) The Producer agrees to deliver to the Distributor, and the latter agrees to order and take the prints relating to at least one of such productions above referred to every week beginning with the 1st day of November, 1924.

(*c*) In the event that the Distributor fails to order or accept delivery of the prints of any productions at the precise rate contemplated herein, the royalties on such undelivered productions shall become immediately due and payable. In the event that the Distributor has not indicated the order in which such productions shall be delivered, the Producer shall decide the order of delivery thereof.

(*d*) The Producer shall deliver, and the Distributor shall accept delivery of all prints at the office or laboratory of the Producer in New York City, U. S. A.

FIFTH: The Producer shall lease to the Distributor such number of additional prints of each production if ordered by the Distributor during the term of the license herein contained as the Producer shall deem reasonable for the requisites of the Territory, provided the negative is in existence, is in the control of the Producer, and is in proper condition to make such prints, as soon after such additional prints are ordered as the same can be delivered, and the Distributor agrees to pay to the Producer the sum set forth in Article "Third" hereof, as rental for such additional prints, upon the delivery thereof. Delivery shall be made in the manner that delivery was made upon the original print and upon the same terms and conditions as to exhibition and distribution.

SIXTH: In the event that any of the prints or parts of prints delivered to the Distributor shall become lost, stolen or accidentally destroyed, the Producer, upon receipt of an affidavit of the Distributor satisfactory to the Producer, setting forth the circumstances of such loss, shall furnish to the Distributor a print or part of print in replacement of, and as a substitute for, such lost print or part of print, provided the negative is in existence, is in the control of the Producer, and is in proper condition to make such print or part of print, as soon after the same is ordered as it can be made and delivered, and the Distributor agrees to pay to the Producer the sum set forth in Article "Third" hereof as rental for such print or part of print upon delivery. In such case such print or part of print shall be delivered in the manner that delivery was made upon the original print, upon the same terms and conditions as to exhibition and distribution.

SEVENTH: Every print delivered to the Distributor under this agreement is to be returned to the Producer by the Distributor, at the Producer's office in New York City, upon the expiration of the license herein contained, provided it has not been lost, stolen or accidentally destroyed, in which case the Distributor is hereby required to supply promptly affidavits satisfactory to the Producer covering the cause of its destruction or loss, or in default thereof the Distributor shall pay to the Producer a sum equal to the sum set forth in Article "Third" hereof for each foot of such print originally delivered to the Distributor.

EIGHTH: It is understood and agreed that the titles and sub-titles of the prints furnished to the Distributor shall be in the English language.

NINTH: The Producer shall supply to the Distributor first-class lithographs printed in the English language, relating to the productions herein referred to, and other advertising accessories at the usual rates charged for such advertising matter, in such quantities as may be required by the Distributor, provided the Producer has the same in stock, delivery to be made at the office of the Producer in New York City, and payment therefor to be made at the time and place of delivery. The Distributor agrees to use only such newspaper advertising and publicity matter as shall strictly conform to the form of announcement, including substantive matter and relative size of type, contained in advertising matter furnished by the Producer relating to such production, and shall prominently advertise and announce each production licensed hereunder, as a "('X') Picture," and not otherwise; and the Distributor shall obtain an agreement from each of its sublessees similar to that contained in this sentence.

TENTH: Any claim by the Distributor arising hereunder shall be presented to the Producer for adjustment, by written notice served by registered letter addressed to the Producer at its principal office in New York City, which said registered letter shall be mailed within twenty (20) days after the occurrence of the act, event or default upon which said claim is based; said notice shall set forth in detail the time when and place where said claim arose and the nature and substance of the claim asserted. The giving of such notice in the manner and within the time hereinabove described and limited shall be a condition precedent to the maintenance of any action or proceeding upon such claim. No action or proceeding shall be commenced, prosecuted or maintained until the expiration of ninety (90) days from the date of the act, event or default upon which the claim is based, and no such action or proceeding shall be maintained on such claim unless commenced within nine (9) months after the date of such act, event or default.

ELEVENTH: The Distributor agrees and guarantees that it will not wilfully or knowingly permit any of the prints furnished by the Producer to be copied or duplicated or shown outside of the Territory, and shall immediately notify the Producer of any infringement of copyright of the production delivered pursuant to this agreement or of any other productions of the Producer, in the Territory.

TWELFTH: The Producer agrees that it will not exhibit any of the productions delivered to the Distributor hereunder, in said Territory, nor will it cause or wilfully or knowingly permit the same to be exhibited therein.

THIRTEENTH: The Producer hereby grants to the Distributor the right to enjoin any showing of any of the productions accepted by the Distributor hereunder by any unauthorized party in the said Territory, and to sue for damages therefor; but the Producer shall in no way be liable for the acts of or expenses incurred by the Distributor in relation thereto.

FOURTEENTH: The Distributor agrees in no event whatsoever to exhibit, or cause to be exhibited or distributed in the said Territory, any print of any motion picture production the rights of exhibition of which are controlled by or derived from the Producer in the said Territory, unless the Distributor has a written lease or license to exhibit the same in the Territory from the Producer.

FIFTEENTH: In the event of the passage of any law prohibiting the importation into the said Territory of films manufactured in the United States, or the exportation into said Territory from the United States of motion picture film, this contract may by either party hereto be abrogated, cancelled and annulled as to future deliveries as of the date of the enforcement of said law, but the Distributor shall be entitled to distribute all motion pictures delivered prior to such date of abrogation or cancellation, as if this contract had not been abrogated, cancelled or annulled.

SIXTEENTH: This contract being signed and entered into in New York, it is agreed that the law to be applied to any matter arising hereunder shall be that of the State of New York and of the United States of America.

SEVENTEENTH: The Distributor agrees not to sell any of the prints delivered hereunder, but may lease the same to responsible purchasers of exhibition rights for the said Territory for a period not exceeding the period of the license herein contained.

EIGHTEENTH: It is understood and agreed that the Distributor is not the representative of the Producer in any manner whatever, and the Distributor agrees not to so hold out, either by advertising or otherwise, to the public or to any person whomsoever, and that the

Producer shall not be liable for or bound by any representation, act or omission whatever of the Distributor.

It is further expressly understood and agreed that this agreement in no wise constitutes a partnership between the parties hereto; this agreement is declared to be personal on the part of the Distributor and it is agreed that the Distributor shall not be permitted to assign this agreement without the written consent of the Producer.

NINETEENTH: The Producer shall not be liable in any way for failure or delay in making delivery of the prints of any production, by reason of accidents, labor troubles, fires, delays of common carriers, orders of court, ruling of censors, delays in completing or delivery to the Producer of negative or positive prints of any production, or destruction of positive or negative print thereof, or any other cause not within the control of the Producer whether of a similar or any other nature.

TWENTIETH: The covenants herein contained shall bind and enure to the benefit of the parties hereto, their legal representatives, assigns and successors.

TWENTY-FIRST: In the event that the Distributor makes default—

(*a*) in paying to the Producer any of the sums herein agreed to be paid, at the time said sums are due and payable;

(*b*) in exhibiting or permitting the exhibition of prints or duplicates of the prints of the Producer delivered hereunder outside the Territory;

(*c*) in complying with any of the provisions of Articles "Fourth," "Seventh," "Fourteenth," or "Seventeenth" hereof;

(*d*) or should the Distributor cease doing business for thirty consecutive days at any time or assign its interest in this agreement by either voluntary or involuntary act, or should the Distributor file a petition in bankruptcy, or be adjudged a bankrupt;

Then on the happening of any of one or more of these defaults the Producer shall have the right to withhold delivery of any or all prints until such default has been cured or may at its option terminate this agreement and the license hereby granted by giving ten days' notice in writing addressed to the Distributor or its Agent, declaring its intention so to do, and in the event of such termination the Producer may seize and take, wherever found, any or all prints theretofore furnished by the Producer to the Distributor, and the Producer may also enjoin in any court or courts having jurisdiction, the use of all prints furnished by the Producer to the Distributor hereunder, and the Producer shall retain to its own use all moneys heretofore paid to it by the Distributor under this agreement.

The rights and remedies hereinbefore last given to the Producer are in addition to and not in lieu of or in limitation or in derogation of the rights and remedies in this agreement otherwise granted or by law or in equity created and vested in the Producer, and any waiver by the Producer of any breach by the Distributor, whether such waiver be direct or implied, shall not be construed to be a continuing waiver or a waiver of or consent to any subsequent breach on the part of the Distributor.

Twenty-Second: The Distributor agrees to deposit the sum of (..................) Dollars ($), to be held and applied by the Producer for the following purposes:

The said sum shall be held by the Producer throughout the period covered by any and all contracts now in force or hereinafter to be entered into between the parties hereto, for the distribution of motion pictures in the Territory. Should the Distributor default in payment of any sum due under any of said contracts, or should the Distributor breach any of said contracts in any other respect, then if such default is not cured, or if complete satisfaction of the Producer's claim arising out of such breach is not made, within ten days after the date on which the Producer shall notify the Distributor by cable or otherwise of such claim or demand for payment, the Producer shall have the right at any time thereafter and without further notice to the Distributor, to apply so much of said deposit as may be necessary in satisfaction of such payment or of such claim, if the amount thereon be liquidated or determinable by computation. If such claim be not liquidated, the Producer shall have the right to withhold so much of such deposit as in its discretion it may deem necessary to fully satisfy such claim, the interest thereon and all costs and expenses, legal or otherwise, connected with the establishment of such claim at law or in equity. Upon the establishment of such claim, the Distributor shall have the right forthwith to apply so much of said deposit as may be required to satisfy the same with interest, costs and expenses. In the event that the Producer applies such sum or any part thereof in satisfaction of such demand or of such claim, the Distributor agrees to deposit a further sum with the Producer equivalent to the sum so applied.

IN WITNESS WHEREOF the parties hereto have duly executed these presents the day and year first above written.

THE "X" MOTION PICTURE CORPORATION
By....................................
Assistant Treasurer.
THE "Y" IMPORTING COMPANY
By....................................

APPENDIX III

MASTER FOREIGN CREDIT INSURANCE POLICY

THE SUBSCRIBERS AT THE
AMERICAN MANUFACTURERS
FOREIGN CREDIT INSURANCE EXCHANGE
CHICAGO, ILLINOIS
(*hereinafter called the Exchange*)
THROUGH
AMERICAN FOREIGN CREDIT UNDERWRITERS, INC.
MANAGER AND ATTORNEY-IN-FACT
SEVERALLY AND IN OUR RESPECTIVE PROPORTIONS

Agreement

Do hereby agree with.. of...one of said SUBSCRIBERS, hereinafter called the SUBSCRIBER, named and described as such in the Contract heretofore executed by him, which is agreed and declared to be a part hereof, as follows:

Consideration

In consideration of the payment of the premiums named in negotiable Foreign Credit Insurance Certificates issued in accordance with the terms of this policy, and further in consideration of the statements, stipulations and warranties contained in the SUBSCRIBER'S Contract, which are, by the acceptance of this policy and negotiable Foreign Credit Insurance Certificate or Certificates issued hereunder, warranted to be true and which are made a part hereof:

Coverage

To indemnify the SUBSCRIBER against loss due to the insolvency (as hereinafter defined) of foreign debtors, or uncollectability at law (as hereinafter defined) of insured accounts which shall occur or result during SUBSCRIBER'S membership at the Exchange, from his granting of credit in connection with his bona-fide sales, resales, or shipments of merchandise to those individuals, firms, co-partnerships, corporations or other trade and buying organizations throughout the World, and covering the insolvency of whom the American Manufacturers Foreign Credit Insurance Exchange has issued its insurance certificates to the SUBSCRIBER.

Policy Period

The period of this policy shall be for one year and shall begin on the........................day of.......................19...., and automatically renew for successive years, in accordance with the SUBSCRIBER'S membership at the Exchange, until such membership is cancelled.

OBLIGATIONS OF THE EXCHANGE

Agreement to Insure

1. The EXCHANGE agrees to insure the specific credit sales, resales or shipments of merchandise made by the SUBSCRIBER to buyers in any part of the world, outside of the continental limits of the United States of America, provided that such buyers are accepted for insurance by the American Foreign Credit Underwriters, Inc., and provided that the SUBSCRIBER has fulfilled his obligations hereunder and has complied with the membership requirements recited in his contract with the Exchange.

Period of Coverage

2. The EXCHANGE will insure acceptable shipments for credit term periods up to six months as specified by the SUBSCRIBER in his nominations of shipment, and will automatically renew such insurance for periods of thirty days thereafter until notice of the payment of the insured shipment is received from the SUBSCRIBER, or until instructed by the SUBSCRIBER to cancel the insurance, or until the SUBSCRIBER'S membership terminates, or until he fails to fulfill his obligations as recited herein and in his contract with the Exchange.

First Two Renewal Periods without Cost

3. The EXCHANGE will waive all premium charges for the first two monthly renewal periods hereinabove mentioned, in consideration of the full coöperation of the SUBSCRIBER in enforcing the procedure for loss prevention outlined in paragraphs 14 to 18, inclusive, and further provided that the subscriber has not included such renewal periods in the period of original credit extended to the insured buyer. The purpose of this waiver of charges is to allow to the member, without penalty, such period to cover delayed reports of foreign payments. Under no circumstances, however, will these free renewal periods be allowed to cover extensions granted to the buyer.

No Renewal Charges After Eighth Renewal

4. The EXCHANGE agrees, after receipt of the eighth renewal premium on any insured account, to automatically keep the insurance

on such account in force without charge for subsequent renewals, unless the membership of the SUBSCRIBER has terminated or he has failed to fulfill his obligations hereunder and in his contract with the Exchange.

Period of Liability

5. The EXCHANGE shall be liable, under the terms of this policy, only in the event that the debtor becomes insolvent, or the insured account is proved "uncollectable at law" prior to the expiration of the period recited in the Foreign Credit Insurance Certificate, which evidences the insurance coverage, and/or renewals thereof, and/or while the insurance remains in force under the terms of the preceding paragraph (Paragraph 4).

Trade Disputes Not Covered

6. The EXCHANGE will not in any event be liable for any loss to a SUBSCRIBER resulting from any trade dispute, disputed account or rejected shipment. HOWEVER, where a dispute or rejection arises, the EXCHANGE agrees, for additional premium consideration, to extend or renew the insurance period for such time as the SUBSCRIBER may request, subject to his compliance with all of the conditions of this policy and his contract with the Exchange.

Necessary Extensions Covered

7. When an extension of time beyond the original terms of sale or period of insurance granted in the original Certificate shall, in the judgment of the SUBSCRIBER and the American Foreign Credit Underwriters, Inc., become necessary or desirable, the EXCHANGE agrees, for additional premium consideration, to extend or renew the insurance period for such time as is approved by the American Foreign Credit Underwriters, Inc.

Payment of Losses

8. The EXCHANGE, within ninety days after receipt of proper proof of loss, shall adjust all losses under the policy, unless verification of the proof of loss cannot be completed within such period because of unavoidable circumstances over which the Exchange has no control, or unless the SUBSCRIBER has failed to fulfill his obligations hereunder. All such adjusted losses shall be immediately payable upon the expiration of such period, unless the total loss claims filled with the Exchange covering the insolvency or default of a single debtor shall exceed fifty thousand dollars, U. S. currency, in which event the EXCHANGE may, at its option, make payment for such losses within nine months after the receipt of proper proofs of loss.

War and Earthquake Not Covered

9. The EXCHANGE will not be liable, under the terms of this policy, for losses arising from insolvency caused by a state of war, or earthquake.

OBLIGATIONS OF THE SUBSCRIBER

Nomination before Delivery

10. The SUBSCRIBER warrants that the merchandise specified in the nomination form has not been delivered to or received by the initial carrier prior to the nomination of shipment, unless otherwise expressly declared therein.

Nomination Must Cover Full Credit Period

11. The SUBSCRIBER warrants that the period of insurance applied for in the nomination is sufficient to cover the goods from the date of the nomination to and including the expiration date of the full period of credit granted to the buyer by the Subscriber on such insured account, including a reasonable time for the reporting of payment.

Subscriber Must Report Payment—Penalty for Failure

12. The SUBSCRIBER agrees to notify the Exchange in writing or by telegram upon his receipt of report of payment on an insured account or when the necessity for a continuation of the insurance is obviated by resale or other disposal of the merchandise. In the event that the Subscriber's failure to report payment or disposal of the merchandise has caused the Exchange to make outlays for legal or other expense incident to the protection of the account, the SUBSCRIBER will reimburse the Exchange for such expenses as were caused by his failure to report.

Prompt Payment of Premiums

13. The SUBSCRIBER, having received notice from the American Foreign Credit Underwriters, Inc., of premium rates fixed by it on individual nominations submitted for insurance, agrees, in the absence of immediate notification that insurance at such rates is not desired by him, to promptly pay the prescribed premium charges, and such renewal charges as may subsequently accrue thereon.

Subscriber Must Coöperate in Loss Prevention

14. The SUBSCRIBER agrees at his own volition to watch and protect the insured account and to coöperate with the EXCHANGE in its loss prevention procedure as outlined in the following paragraphs (15 to 19, inclusive), and failure to fulfill any or all of the obligations

contained therein shall constitute valid ground for the cancellation of the insurance and shall release the Exchange from liability.

Insolvency before Shipment

15. In the event that the SUBSCRIBER receives notice of the insolvency of an insured debtor before shipment is made, and the insured shipment consists of staple merchandise such as is usually sold by the SUBSCRIBER, the SUBSCRIBER shall cancel the agreement of sale, and the EXCHANGE will not be liable for any loss thereon, except any loss which may result to the SUBSCRIBER in restoring the merchandise to saleable condition.

Procedure for Coöperating in Loss Prevention—Costs of Diversion, Resale, Etc., Borne by Exchange

16. If the SUBSCRIBER shall receive information during the time that the insurance is in force, regarding an insolvent act by the insured debtor or a change in his financial condition, or status, he shall telegraph or otherwise immediately communicate such information to the Exchange, in order that they may protect their insured interest, and shall, at the direction of the American Foreign Credit Underwriters, Inc., take such action as may be required by them to prevent the shipment of, or to recover, the merchandise, or to prevent a loss in connection with the transaction; it being understood and agreed that all costs thereby incurred, and arising from action taken within three months after the maturity of the insured account, at the direction or with the consent of the Exchange, shall be borne by the EXCHANGE in the same proportion that the amount insured bears to the total value of the shipment. The SUBSCRIBER will not take any steps to prevent loss on such account without first obtaining the approval of the American Foreign Credit Underwriters, Inc., except where immediate action will benefit the interests of the Exchange.

Expenses of Obtaining Proof and Collecting Accounts Borne by the Subscriber

17. All charges and expenses incident to obtaining proof of the insolvency of the debtor or the uncollectability at law of the insured account, and the expenses of collection of overdue insured accounts, and the expenses of diversion or resale of insured shipments by the seller other than as described in paragraph 16 above, shall be borne by the SUBSCRIBER.

Third Renewal Procedure—Option A

18. (OPTION A.) When an insured account has become three months overdue, the SUBSCRIBER shall immediately, at his own expense, take such steps toward the protection and collection of the

account as are requested by the American Foreign Credit Underwriters, Inc.

Option B May Be Attached by Rider

(NOTE: Option B may be attached hereto as a rider to the policy, supplanting Option A, if the Subscriber so elects. In the absence of a signed rider embodying Option B, Option A will be binding upon the Subscriber. Option B provides that, in consideration of an additional payment of one-third of the premium charge on all original certificates, no renewal premiums whatsoever will be charged to the Subscriber, and all legal registration fees incident to the handling of overdue accounts by the Legal Department of the Exchange will be waived.)

Exchange Bears Expense of Attendance at Creditors' Meetings
Subscriber Must Communicate Composition Proposals

19. If a debtor shall default in the payment of his matured debts, and shall submit a proposition to his creditors showing that his aggregate property at a fair valuation is sufficient in amount to pay his debts in full and requesting that he be granted an extension of time for the payment of such indebtedness, the SUBSCRIBER shall communicate such proposal to the Exchange and shall authorize the representative of the Exchange, at the expense of the Exchange, to act on his behalf in a consideration of the proposal of the creditors, and if a majority in number and amount of the creditors grant an extension to the debtor, the liability of the Exchange on the Subscriber's insured indebtedness involved in the extension, shall be suspended but not released during the period of such extension, and there will be no additional premium charge. If the proposition submitted by the debtor which is accepted by the majority in number and amount of the creditors does not provide for the payment in full of his indebtedness, the Exchange will pay to the SUBSCRIBER the full insured amount of the shipment and become subrogated to the rights of the SUBSCRIBER against the debtor.

Subscriber's Basic Duty to Prevent Loss

20. If the EXCHANGE fails to exercise its privilege of cancellation of the insurance, or if the American Foreign Credit Underwriters, Inc., fails to notify the SUBSCRIBER to take action on a jeopardized or overdue account, nevertheless, the SUBSCRIBER is not released from his obligation to take active protective steps to prevent loss on the account and to notify the EXCHANGE.

Subscriber Must Subrogate Exchange to Full Rights

21. In case of payment of any loss under this policy, the Exchange shall be subrogated to the extent of such payment to all the SUBSCRIBER'S rights of recovery and the SUBSCRIBER shall, at his own

expense, immediately file his claim with the Referee in Bankruptcy, Receiver, Assignee or other proper officer, so as to make said claim a valid one against the assets of the debtor; and unless such claim shall be filed, there shall be no liability hereunder for such claim. It is understood and agreed, however, that any delay in filing such claim with the Referee, Receiver, Assignee or other proper officer, due to distance or abnormal conditions and unforeseen circumstances over which the SUBSCRIBER has no control shall not release the Exchange from liability hereunder, unless the SUBSCRIBER has been negligent. Any negligent act by the SUBSCRIBER, however, which destroys the rights to which the Exchange would otherwise be subrogated, will void the claim.

General Conditions

Definition of "Insolvency" Under This Policy

22. A foreign debtor shall be insolvent under the terms of this policy when it shall be established that:

(a) The aggregate of the property of such debtor at a fair valuation shall not be sufficient in amount to pay his debts and such debtor shall have failed to pay his debts as they matured without legal excuse therefor.

(b) The debtor shall have been adjudicated a voluntary or involuntary bankrupt according to the laws of the country in which the debtor resides or has his business establishment.

(c) The debtor shall have made an assignment of his assets for the benefit of his creditors.

(d) The debtor's stock in trade shall have been sold under a writ of execution.

(e) A writ of execution or attachment in the jurisdiction where the principal place of business of the debtor is located shall have been returned unsatisfied.

(f) The debtor shall have compromised with a majority in number and amount of his creditors for less than the amount of his indebtedness to them.

(g) A receiver for the debtor shall have been appointed and confirmed in a bankruptcy or insolvency proceeding.

(h) The debtor shall have transferred or sold in bulk his stock in trade without having made due and proper provision for the full settlement of his indebtedness.

(i) The debtor shall have absconded.

Definition of "Uncollectable at Law," under This Policy

23. If the Legal Department of the American Foreign Credit Underwriters, Inc., or the attorneys for the Exchange, independently or at the instance of the SUBSCRIBER, shall determine, even in the absence of an overt act of legal insolvency by the debtor, that litiga-

tion against the debtor is useless or that the insured account cannot be collected on its merits by legal process, on account of the inability of the debtor to pay a judgment, the EXCHANGE will adjust and pay the loss on such insured account upon certification of such findings by their attorneys.

Exchange Liability Not Released by Moratorium

24. A moratorium declared by any foreign government or the filing of a petition by debtor for suspension of payment or the confirmation or allowance of any such petition shall suspend but not release the liability of the Exchange. There shall be no additional premium charge during the interim of the moratorium or after such petition shall have been filed until the same shall have been allowed or refused, or if allowed, until the period of the suspension shall have expired. That portion of this paragraph relating to "Suspension of Payments" does not apply to Subscribers who have exercised Option C (Rider No. 2) hereinabove mentioned. (Option C withdrawn by order of Trustees, Nov. 30, 1925.)

Burden on Member to Furnish Information Rendering Approximate Nominations Effective

25. All rate quotations are subject to withdrawal by the EXCHANGE and for immediate acceptance by the SUBSCRIBER nominating the shipment for insurance, and no loss is covered by this policy unless the American Foreign Credit Underwriters, Inc., shall have issued to or obligated itself in writing to issue to the SUBSCRIBER a Foreign Credit Insurance Certificate covering such shipment, but the EXCHANGE may refuse to subsequently issue certificates covering approximate nominations unless the SUBSCRIBER has furnished the necessary information for the issuance thereof within sixty days after such nomination.

Certificates Interpreted in Light of Policy

26. Individual risks nominated for insurance by the SUBSCRIBER under this policy are covered by the issuance by the EXCHANGE of individual negotiable Foreign Credit Insurance Certificates, and these Certificates are considered a part of this policy and are subject to all of the rights and defences conveyed herein.

Period of Coverage Contained in Certificate

27. Each negotiable Foreign Credit Insurance Certificate issued hereunder shall specify a definite beginning and ending date which shall constitute the period of time during which the SUBSCRIBER is insured against loss in connection with the individual sale, resale or shipment covered by such Certificate for the premium consideration

named therein (subject to the Renewal provisions in paragraphs 2, 3 and 4, lines 22-34 inclusive).

Premium Rates Lowered by Co-Insurance—Subscriber Bears 20% Co-Insurance Unless Option D Is Exercised

28. Premium rates on nominations of shipment submitted under this policy are determined by the underwriting department of the American Foreign Credit Underwriters, Inc., and are based upon the character and credit rating of the debtor, the nature of the account, the character of the commodity, the amount of co-insurance carried by the SUBSCRIBER, and other factors. Every SUBSCRIBER is covered by the Exchange in full on all insured risks which are rated and classified as prime or first class accounts (AA and A). The SUBSCRIBER, however, carries twenty per cent co-insurance, and bears twenty per cent of the loss, on all insured risks which are rated and classified as second and third-grade accounts (B and C), unless he has exercised Option D (Rider No. 3) hereunder.

(NOTE: Option D (Rider No. 3) provides that the Exchange grants full coverage on accounts of all insurable grades—without co-insurance by the SUBSCRIBER—in consideration of the payment of higher initial premiums by the SUBSCRIBER.)

Salvage Distributed Pro-Rata if Portion of Indebtedness Is Uninsured

29. If the debtor shall be indebted to the SUBSCRIBER for an amount in excess of the insured amount, any salvage obtained shall be allocated pro rata to the insured and uninsured portions of the account. The term "Salvage," as used herein, shall include any credits, payments or security, whether by money payments, goods returned or replevined, assignment of accounts, or transfer or mortgage of property, or other moneys realized by the SUBSCRIBER and for the EXCHANGE, subsequent to the maturity date of the insured account. This provision will apply whether the credits, payments or security come from the debtor or his estate, or from a third party.

Computation of Loss

30. In arriving at the net amount due by the debtor to the SUBSCRIBER at date of insolvency, there shall be deducted from the face amount of the debt, the amount of all discounts to which the debtor would have been entitled had the debt been paid at the date of insolvency, whether by money payments, goods returned or replevined, or other moneys realized, or to be realized on any securities or specific guarantee.

If Claim Also Covered by Other Insurance

31. If the SUBSCRIBER carries a policy of any other insurer covering concurrently a claim covered by this policy, he shall not

recover from the Exchange a larger proportion of any such claim than the amount insured bears to the whole amount of such concurrent insurance.

Misrepresentation or Fraud Voids Policy—Suits Must Be Brought Within Six Months After Rejection of Claim

32. All statements made by the SUBSCRIBER in applying for insurance shall be material representations, and any misrepresentation, concealment or fraud in the proposal for any insurance or in the presentation of any claim shall render this policy and all outstanding negotiable Foreign Credit Insurance Certificates void, and the premiums shall be forfeited. No suit or action under this policy, on negotiable Foreign Credit Insurance Certificates issued hereunder, shall be maintained against the Exchange unless the SUBSCRIBER shall have fully complied with the conditions of this policy; nor shall any suit be maintained in any event unless it be brought within six (6) months after the proof of loss of the SUBSCRIBER shall have been rejected by the Exchange.

Proof of Loss Must Be Filed Within 90 *Days*

33. Proof of loss, hereunder, shall be filed by the SUBSCRIBER with the Exchange within ninety (90) days after notice has been received of the insolvency of the debtor, as interpreted under this policy, and any failure of SUBSCRIBER to so notify the Exchange shall release the Exchange from any liability whatsoever. It is understood and agreed, however, that any delay in filing Proof of Loss at the Exchange, due to distance, or abnormal conditions and unforeseen circumstances, over which the SUBSCRIBER has no control shall not release the Exchange from liability hereunder, unless the SUBSCRIBER has been so negligent that the Exchange has lost the rights to which it otherwise would be subrogated.

Subscriber's Books May Be Examined

34. In order to verify the claim, the Exchange shall have the right to examine the SUBSCRIBER'S books of account, shipping documents, and all other papers and documents in connection therewith.

Changes in Policy

35. The trustees of the EXCHANGE may modify this policy upon informing the SUBSCRIBER of the changes effected, and any condition or provision of this policy may only be waived or altered by the mailing of an endorsement or "rider" to the SUBSCRIBER signed by duly authorized officers of the American Foreign Credit Underwriters, Inc., as Manager and Attorney-in-fact for the American Manufacturers Foreign Credit Insurance Exchange.

IN WITNESS WHEREOF THE SUBSCRIBER AT THE AMERICAN MANUFACTURERS FOREIGN CREDIT INSURANCE EXCHANGE have severally authorized and caused this Policy No. .... to be signed for them and in their behalf by the American Foreign Credit Underwriters, Inc., Attorney-in-fact of each and every one of them, at Chicago, Illinois, this...........day of ...............A.D., 19........

AMERICAN FOREIGN CREDIT UNDERWRITERS, INC.
Attorney-in-fact.

....
Secretary

....
Vice-President

SUBSCRIBER'S CONTRACT AT THE AMERICAN MANUFACTURERS FOREIGN CREDIT INSURANCE EXCHANGE

CHICAGO, ILLINOIS

Parties to Contract

Contract made between.......................................
(hereinafter called the SUBSCRIBER), the Subscribers at the American Manufacturers Foreign Credit Insurance Exchange, severally to the extent of their respective proportions (hereinafter called the SUBSCRIBERS) and the American Foreign Credit Underwriters, Inc., (hereinafter called the UNDERWRITERS).

Purposes of Contract

WHEREAS the said Exchange is an association of SUBSCRIBERS who exchange foreign credit insurance among themselves, and

WHEREAS the said...
desires to become a SUBSCRIBER of the said association and/or to insure his shipments to foreign buyers against the insolvency of such buyers by exchanging insurance contracts at the Exchange to the extent and within the limitations hereinbelow provided through the UNDERWRITERS as Manager and Attorney-in-fact for the Exchange,

NOW, THEREFORE, the parties hereto, in consideration of their mutual promises, agree among themselves as follows:

AGREEMENTS OF SUBSCRIBER

Acceptance of Master Policy

1. The SUBSCRIBER accepts the Master Policy issued to him on the signing of this contract and agrees to be bound by the provisions and warranties therein.

Payment of Fee and Premium

2. The SUBSCRIBER agrees to pay a membership fee of Two Hundred Fifty Dollars ($250.00) upon the signing of this contract, the said fee to cover his membership for a period of one year from the signing of this contract and a copy of the..............Market Guide and also agrees to make advance payment of the prescribed premium and renewal charges on individual certificates.

Furnishing of Ledger Experience

3. The SUBSCRIBER agrees to furnish his ledger and sales experience and a synopsis of credit information in his possession relating to all his customers located and engaged in business outside of the continental limits of the United States when called upon by the UNDERWRITERS to do so.

Use and Return of Market Guides

4. The SUBSCRIBER agrees that the Market Guides and the credit and insurance information supplied by the UNDERWRITERS are for his own use exclusively and that the same will not be sold, rented, loaned, given or furnished to any other person, firm, corporation or organization and that the said Guides are to remain the property of the UNDERWRITERS and to be returned to it upon the expiration or cancellation of the SUBSCRIBER'S membership.

Insurable Interest in Merchandise

5. As to every shipment insured by him, the SUBSCRIBER agrees and warrants that he will, at the time that such shipment is placed in the hands of the initial carrier for transportation, have full title to the merchandise comprising such shipment, except such title as may be held by a bank that has financed the shipment in whole or in part, and the SUBSCRIBER further agrees and warrants that the foreign buyer named in each and every nomination for insurance submitted by him to the UNDERWRITERS, shall be the actual buyer.

General Authorization to Underwriters

6. The SUBSCRIBER hereby appoints the UNDERWRITERS as his attorney and authorizes it in its name and as his attorney in his place and stead, to make, subscribe, issue, change, modify, reinsure, or cancel contracts exchanging foreign credit insurance, and agrees that such appointment and authority shall be irrevocable during the period of his membership at the Exchange.

Limitation of Liability

7. The SUBSCRIBER, in granting the UNDERWRITERS the authority provided in paragraph 6 above, does so on the following express conditions:

(a) That such contracts of insurance exchanged for him shall be in the proportion which his earned premium during any fiscal year of the Exchange, as the same may be fixed and changed from time to time by the Exchange, bears to the total earned premium of the Exchange for such fiscal year, and that his liability with respect to such insurance exchanged for him together with taxes, department fees, adjuster's and attorney's fees, court costs and all other expenses of any kind shall, in no event, render him liable for more than once again his earned premium during any such fiscal year of the Exchange, earned premium as herein used meaning the premiums charged for insuring the foreign shipments of the SUBSCRIBERS.

(b) That such contracts of insurance shall be exchanged only with the SUBSCRIBERS at the Exchange, and that the liability provided in this paragraph shall apply only to those SUBSCRIBERS exchanging contracts of insurance and to the extent and within the limitations herein provided.

Specific Authorization to Underwriters

8. The SUBSCRIBER authorizes the UNDERWRITERS to extend the membership of the Exchange by securing new SUBSCRIBERS under such regulations and limitations as may be prescribed by the trustees of the Exchange and to issue Master Policies to such SUBSCRIBERS upon their signing contracts in the same form as this contract, and the SUBSCRIBER further irrevocably authorizes the UNDERWRITERS as his attorney and in its name to do the following during the period of his membership at the Exchange: To give, waive or receive all notices or proofs of loss; to adjust and settle all losses and claims on such contracts; to perform or waive all agreements or stipulations of any such contracts; to appoint the Insurance Superintendent or like official of any State, or in lieu thereof a duly accredited agent, as his agent, upon whom service of process may be made with the same force and effect as if made upon him; but only in relation to any foreign contract or claim hereby authorized; to appear for him in any suits, actions or proceedings and bring, prosecute, defend, compromise, settle or adjust same; to perform every act not herein specifically mentioned that he himself could do in relation to any foreign sale or contract hereby authorized; to demand, collect, receive and receipt for all moneys due the SUBSCRIBER on his account as a SUBSCRIBER; to automatically renew all insurance certificates until instructed in writing by the SUBSCRIBER that such renewals shall be discontinued subject to the conditions and limitations contained in the Master Policy.

Compensation to Underwriters

9. The SUBSCRIBER agrees to compensation for the UNDERWRITERS provided in paragraph 13 under Agreements of Underwriters.

Cancellation for Non-Payment of Charges

10. The SUBSCRIBER agrees that upon his failure to pay the membership fee and/or any premium or renewal charges, the UNDERWRITERS may, upon ten days' written notice to him, cancel *ab initio* any or all outstanding certificates issued to him, and that any premium or renewal charges paid on such certificates shall be deemed to be earned and shall be retained to cover the expense incurred and the service rendered on behalf of the SUBSCRIBER.

AGREEMENTS OF UNDERWRITERS

Market Guide and Service

11. The UNDERWRITERS agree to supply the SUBSCRIBER with its......................................Market Guide and its customary rating and insurance service.

Ledger Experience, Etc., Confidential

12. The UNDERWRITERS agree that all ledger, sales and credit information relative to foreign buyers furnished to it by the SUBSCRIBER shall be for its confidential use in supplying the SUBSCRIBERS with insurance ratings, and that the name of the SUBSCRIBER furnishing the information will not be disclosed.

Work and Compensation of Underwriters

13. The UNDERWRITERS agree to accept the appointment herein granted to it by the SUBSCRIBER, and for its services as Manager and Attorney-in-fact for the Exchange, the UNDERWRITERS shall receive as its full and entire charge thirty per cent of the earned premiums, and in consideration of such payment, it shall meet and pay all the costs and expenses of operating the Exchange, except taxes, fees of insurance or other like departments, attorney's fees, court costs, telegrams, cable tolls, the per diem honorarium and expenses of the trustees, and all other necessary costs and expenses of handling, investigating, adjusting and paying claims and losses.

GENERAL CONSIDERATIONS

Trustees

14. A Board of Trustees, consisting of not less than seven SUBSCRIBERS or their representatives, of which four shall constitute a quorum for the transaction of business, shall be elected to serve for one year at the annual meeting of SUBSCRIBERS, of which the attorney shall give each SUBSCRIBER at least ten days' notice in writing and which shall be held on the second Tuesday of January of each year; voting to be by ballot, each SUBSCRIBER or his proxy

having one vote; vacancies on the Board of Trustees may be filled by the remaining SUBSCRIBERS or the UNDERWRITERS.

Funds

15. The UNDERWRITERS shall provide for the safe keeping of SUBSCRIBERS' funds. If at any time losses occur impairing the reserve on policies required by law to be maintained, or in the absence of such lawful requirements, then the trustees may, according to their judgment, create a reserve fund from savings accruing at the Exchange, or refund same to the SUBSCRIBERS from time to time as they deem best.

Loss Payments

16. Disbursements from funds of SUBSCRIBERS shall be by check, signed by the UNDERWRITERS. The UNDERWRITERS shall give such bonds as may be required by the Board of Trustees. If at any time, losses should occur in an amount sufficient to require for their payment any part of the contingent liability of the SUBSCRIBER herein provided for, the SUBSCRIBER will, upon demand, pay an amount adequate to defray his portion of such losses, subject always to the limitations hereinbefore set forth.

Duration

17. This Contract and the powers herein conferred are strictly limited to the uses and purposes herein expressed, and to no other use or purpose and are continuous, but may be terminated at the expiration of any contract year by the SUBSCRIBER or by the UNDERWRITERS, by either giving to the other sixty days' notice in writing; but unless such notice is given, this Contract shall be automatically renewed from year to year upon the terms and conditions and for the annual membership fee herein provided.

Personal Pronoun

18. The personal pronoun used herein shall apply whether the undersigned SUBSCRIBER is a person, firm, co-partnership or corporation.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this...................... day of ...., 19........

Approved and Accepted.

AMERICAN FOREIGN CREDIT UNDERWRITERS, Inc., for itself and for the Subscribers at the AMERICAN MANUFACTURERS FOREIGN CREDIT INSURANCE EXCHANGE.

By....................................

Secretary

....

Representative

....(Seal)

....

APPENDIX IV

TYPES OF EXPORT SALES CONTRACTS

I. UNITED STATES STEEL PRODUCTS COMPANY

General Conditions of Sale F.O.B. Mill

Delivery

The seller referred to in these Conditions of Sale is the UNITED STATES STEEL PRODUCTS COMPANY.

1. It is understood and agreed that f.o.b. mill means delivery free on board cars at the manufacturer's works, and any allowance or prepayment by the seller of freight charges, whether included in the sales price or paid for the purchaser's account, shall not extend the obligations of the seller with respect to delivery, nor shall the seller be under any obligation to replace goods lost or damaged in transit. Unless otherwise agreed in writing, and prepayment of freight charges by the seller shall be for account of the purchaser, and shall be added to the amount of the invoice and repaid by the purchaser on presentation thereof.

Routing

2. If the sales price be inclusive of freight from the manufacturer's works to an agreed destination, the seller shall be entitled to select the carrier and routing. If the freight charges are not included in the sales price, the purchaser shall be entitled to select any routing officially authorized and published by the transportation companies, provided he advises the seller of such routing at the time of placing the order. The seller, however, reserves the right to change to any available route if inability to secure cars promptly, or other reasons, would involve delay in forwarding goods over the route selected by the purchaser.

Freight Rates

3. If the sales price be inclusive of freight to an agreed destination, it is understood and agreed that such price is based upon the lowest official freight rate in effect at the date of the sale, and any difference between such rate and the rate actually paid when the goods are forwarded from the manufacturer's works, whether such difference results from change in rate or change in route, shall be for the purchaser's account, that is to say, any increase shall be added to the price and any decrease shall be deducted therefrom.

Insurance

4. It is understood and agreed that in no case does the sales price, even although inclusive of freight, cover the cost of any insurance, but if the route selected as above provided involves movement of the goods by water, or by rail and water, for which the freight rate does not include insurance, the purchaser will repay to the seller the cost of such marine insurance as the seller may effect.

Excusable Delays

5. The seller shall not be liable for any delay in manufacture or delivery due to fires, strikes, disputes with workmen, war, civil commotion, epidemics, floods, accidents, delays in transportation, shortage of cars, shortage of fuel or other material, shortage of labor, acts, demands or requirements of the Government of the United States, or of any other State or Government, or to any other causes beyond the reasonable control of the seller, or of the manufacturer, notwithstanding such causes of delay are operative at the time of making the contract, and the existence of such causes of delay shall justify the suspension of manufacture and shall extend the time of performance on the part of the seller to such extent as may be necessary to enable it to make delivery in the exercise of reasonable diligence after the causes of delay have been removed. If the performance of the contract by the seller be delayed by reason of any of the causes above mentioned, the purchaser may, subject to previously obtaining the consent of the seller, cancel the purchase of such portion of the goods for which details and shipping instructions have been duly furnished in accordance with the contract, as may have been subjected to such delay, provided such portion of the goods has not been manufactured nor is in process of manufacture at the time the purchaser's request for such cancellation arrives at the manufacturer's works. The provisions of this paragraph shall not be limited nor waived by any other terms of the contract, whether printed or written.

Partial Shipments

6. The seller may ship any portion of the goods as soon as completed at the manufacturer's works and payment for any portion of the goods as shipped shall become due in accordance with the terms of payment. Insistence by the purchaser on suspension of manufacture or of any shipment, if not acquiesced in by the seller, may be treated by the seller as a wrongful termination of the contract on the part of the purchaser; and the purchaser shall thereupon be liable for all damages arising out of such termination.

Details and Shipping Instructions (Specifications)

7. If the purchaser fails to furnish details and shipping instructions to enable the seller to perform this contract in accordance with its

terms, the seller shall be entitled at its option, and in addition to all other rights, to cancel such portion of the contract as may remain unexecuted, or to make shipment in accordance with the details and shipping instructions which the purchaser may have furnished for previous shipments on account of the same or a previous contract. The purchaser shall not, however, be entitled to change or modify, except with the consent of the seller, any specification, details or instructions comprised in the contract itself.

Inspection

8. Inspection of the goods, if agreed to, must be made at the manufacturer's works, and such inspection and acceptance shall be final. Reasonable facilities will be afforded to inspectors, representing the purchaser, to make such inspection and to apply, previous to shipment from the manufacturer's works, tests in accordance with the specifications to which the seller has previously agreed.

Claims

9. The seller shall not be liable for any claims unless they are made promptly after receipt of the goods and due opportunity has been given for investigation by the seller's own representatives. The seller shall not be liable for any claims for labor nor for consequential damages. Goods must not be returned except by permission of the seller.

Damage in Transit

10. The seller agrees that the goods shall be in good condition when delivered on cars at the manufacturer's works.

General

11-a. The goods are to be exported to the destination stated by the purchaser at the time the inquiry is made, and the purchaser guarantees that the goods will be shipped to that destination, and agrees to furnish, if required by the seller, a Landing Certificate duly signed by the Customs Authorities at the port of destination, certifying that the goods have been landed and entered at that port.

11-b. The seller reserves the right, even after partial payment on account of any contract with the purchaser, to require from the purchaser satisfactory security for the due performance of any and all of his obligations, and refusal to furnish such satisfactory security or the failure of the purchaser to perform any of his obligations under this or any other existing contract will entitle the seller, upon notice to the purchaser, to suspend shipments or to cancel the contract, or so much of it as may remain unexecuted, without prejudice to any claim for damages the seller may be entitled to make.

11-c. All drawbacks of duties paid on materials entering into the manufacture of the goods shall accrue to the seller, and the purchaser agrees to furnish the seller with all documents necessary to obtain payment of such drawbacks and to coöperate with the seller in obtaining such payment.

Terms

12. Unless otherwise agreed in writing the terms of payment are net cash on presentation of invoice and inland bill of lading to bankers approved by the seller, with whom credit in favor of the seller for the full amount of the contract or sale is to be established concurrently with the making of the contract, this credit to be confirmed to the seller by the bankers and to remain in full force and effect until the order or contract shall have been completely performed. Delay by the purchaser in establishing such credit, or in establishing such other credit as may be agreed upon in writing, shall extend the time for the performance of the contract by the seller to such extent as may be necessary to enable it to make delivery in the exercise of reasonable diligence after such credit has been established, or, at the seller's option, may be treated by the seller as a wrongful termination of the contract on the part of the purchaser and the purchaser shall thereupon be liable for all damages arising out of such termination.

13. Every quotation is based on the understanding that, if accepted and the seller so elect, a formal contract, satisfactory to the seller, will be signed by the purchaser.

II. INTERNATIONAL GENERAL ELECTRIC COMPANY, INC.

SCHENECTADY, NEW YORK, U.S.A. 120 BROADWAY, NEW YORK, U.S.A.

....
(*Place and date*)

To ....
(*Hereinafter called the Purchaser*)

Address ....
(*Street number*)

....
(*City*)

Destination of shipment...

The International General Electric Company, Inc., (hereinafter called the Company) proposes to deliver the goods herein described for shipment to the above destination, subject to the following terms and conditions:

The *Company* agrees that the goods will be carefully packed for foreign shipment in accordance with the standard practice of the Manufacturer. Goods shall be installed by, and at the expense of the *Purchaser.*

Unless the *Purchaser* notifies the *Company* in writing that it desires the privilege of inspection or special test before shipment it will be understood that the usual inspection and tests at the factory will determine whether the goods meet the requirements of the contract. If the *Purchaser* requires inspection or tests by his representative, such inspection and tests, unless otherwise herein specified, shall be made at the manufacturer's plant at the *Purchaser's* expense and the *Purchaser's* acceptance based on such inspection or tests shall be considered as final. Time required for inspection or tests requested by the *Purchaser* shall correspondingly extend dates of shipment and delivery. There are no warranties after acceptance but the *Company* will repair or replace f.o.b. point of manufacture any part which under normal or proper use proves defective in workmanship or material within one year from date of delivery, provided the *Purchaser* gives the *Company* immediate written notice of such defects. The correction of such defects by repair or replacement shall constitute fulfillment of all the *Company's* obligations with respect to the goods sold hereunder. The *Company* shall not be liable for consequential damages.

Dates of shipment and delivery are approximate and subject to change by reason of factory conditions. Shipment and delivery are subject to delay caused by fire, strike, civil or military authority, insurrection or riot, failure of the *Purchaser* to furnish promptly all necessary information, or other causes beyond the control of the *Company*.

The *Company* may ship any portion of the goods as soon as manufactured and pro rata payment shall become due as shipments are made. If shipments are delayed by the *Purchaser*, pro rata payments shall be made for the goods which the *Company* is prepared to ship and the goods shall be held at the expense and risk of the *Purchaser*. In such event placing the goods in storage shall constitute complete delivery.

This contract supersedes all previous negotiations and agreements and may not be assigned by the *Purchaser* without written consent of the *Company*.

PRICE ....
DELIVERY ....
(F.o.b. cars, f.o.b. vessel, f.a.s., c.i.f. or c. & f.) . . . . (Place)

SUBJECT TO THE ADDITIONAL TERMS AND CONDITIONS PRINTED ON THE BACK OF THIS SHEET

TERMS OF PAYMENT:

The foregoing proposal is subject to the approval of an executive officer of the *Company* and is not binding upon the *Company* until so approved and delivered to the *Purchaser*, nor in any event unless accepted by the *Purchaser* within........days from date of its submission. If this printed form is altered or modified in any respect, except to abridge the time of payment, it must be approved by an executive officer of the *Company* and is not binding upon the *Company* unless it is so approved. No modification of this agreement shall be valid unless made in writing duly executed by the *Purchaser* and approved by a duly authorized representative of the *Company.*

INTERNATIONAL GENERAL ELECTRIC COMPANY, INC.
By................................

To International General Electric Company, Inc.:

Your proposal as above is hereby accepted this.................
day of..........................19.......

....
By.....................................
President.

Attest:................................
Purchaser's Secretary

Approved.........................19....

INTERNATIONAL GENERAL ELECTRIC COMPANY, INC.
By...........................

Attest:................................
Secretary

DEFINITIONS AND CONDITIONS APPLICABLE TO F.O.B., F.A.S., C.I.F. AND C. & F. SALES

F.O.B. Sales

It is understood and agreed that, according to the place specified for f.o.b. delivery, full and final f.o.b. delivery is constituted:

(a) In the case of f.o.b. cars at works or warehouse by delivery of the goods by the *Company* on board the cars of the railroad at the designated place for transportation therefrom;

(b) In the case of f.o.b. vessel by delivery of the goods by the *Company* on board the vessel at the place specified;

(c) In the case of f.o.b. designation by delivery of the goods by the *Company* at the specified destination in the vessel or on board railroad cars as specified.

F.A.S. Sales

It is understood and agreed that delivery alongside vessel or at the wharf, pier, or other customary place of receiving goods destined for shipment by vessel shall constitute full and final f.a.s. delivery.

C.I.F. and C. & F. Sales

Delivery

It is understood and agreed that the tender to the *Purchaser,* or his authorized Agent, of proper bills of lading, freight paid (and, in the case of c.i.f. sales, negotiable insurance certificate, premium paid) shall constitute full and final delivery; that the *Company* accepts no responsibility for the arrival of goods at destination or for loss or damage in transit and that the *Purchaser* assumes all risks of transportation except as covered by the legal responsibility of the carriers (and/or, on c.i.f. sales, by the Insurer's certificate) and accepts and agrees to all usual and customary clauses in the bills of lading as well as such additional clauses and stipulations as may be lawfully imposed by the carriers; and that the *Company* is entitled to select the route, port of shipment, and vessel with privilege of stopping in transit at port or ports, and that any charges at destination, including lighterage, wharfage, landing charges, or other charges, dues, or duties are for the account of the *Purchaser.*

Insurance

The insurance on c.i.f. sales is understood and agreed to cover marine risks only and to destination, or as near thereto as the insurers will accept the risk, covered by sales price, free of particular average, English conditions, for a sum equal to the amount of the invoice. Other forms of insurance, if obtainable, must be agreed upon in writing, the additional cost to be for the account of the *Purchaser.*

Consular Invoices

All consular fees for legalizing invoices, stamping bills of lading or other documents required by the laws of the countries of destination shall be payable extra by the *Purchaser.* If not otherwise arranged the *Company* is hereby authorized to pay same for *Purchaser's* account.

The *Company* will take out consular documents as Agent for the *Purchaser,* who must state how the goods are to be declared; and if the *Purchaser* does not furnish the necessary instructions, the *Company* will make declaration according to its best judgment, but will not in any case be responsible for fines or other charges due to errors or incorrect declarations.

III. THE ATLANTIC REFINING COMPANY

MAIN OFFICE—260 SOUTH BROAD STREET
PHILADELPHIA, PENNSYLVANIA

Bulk Sales Contract

THE ATLANTIC REFINING COMPANY (a PENNSYLVANIA Corporation) hereinafter designated as "Seller," agrees to sell and ....
....
hereinafter designated as "Buyer," agrees to purchase:

Subject to the terms and conditions hereinafter named:

Quantity

Product

Price

Payment

Specifications

All products herein specified shall be well refined and of good merchantable quality, and shall correspond when tested before delivery in the manner herein provided to the following specifications or better:

Delivery

The average of deliveries in accordance with above specifications shall be accepted by buyer as satisfactory delivery under this contract.

Seller agrees to make delivery f.o.b. tanker to be furnished by Buyer at the port of such tanker to arrive at loading wharf of Seller or such other place as Seller may direct in said port, and delivery to commence during the period from ....192.... to .... 192.... both dates inclusive.

Buyer shall furnish written notice by letter, telegram or cable, which shall reach Seller on or before fifteen days prior to the first day of the period herein provided for commencement of delivery, nominating by name a tanker, of sufficient capacity to receive the product purchased, and the date when the tanker is due to arrive at said port. Substitution may be made of another like tanker, provided Buyer complies with the conditions of the period of arrival and notice hereinbefore mentioned. Buyer agrees that at least five days before the designated date fixed for delivery, written instructions shall be given Seller concerning the preparation, making and destination of the B/L and with an order for the first port of discharge, if more than one. All necessary telegraphic instructions shall be at expense of Buyer. Seller agrees to deliver said product to said steamer at the rate of not less than 1,200 tons per running day, weather permitting, and Sundays and holidays excepted, unless used, counting from the expiration of six hours after written notice has been received from the Master of the tanker of his readiness to receive the cargo, berth or no berth, and if the delivery be not maintained at this rate, due to any fault of Seller, the latter agrees to pay any demurrage which may accrue not to exceed a sum computed at the rate of .... per net register ton, per hour.

If in the opinion of Seller, or the Master of the tanker, any part of the product cannot with safety to the tanker, because of depth of water, be delivered and taken aboard at the loading wharf, ...

.... agrees to furnish lighterage which shall be for .... account.

Seller's responsibility for said product shall cease when product has been delivered to or has reached the tanker's rail.

Insurance

Buyer shall cover product with marine insurance with approved Underwriters before tanker commences to load, at two per cent over the contract price, such insurance to be for Seller's benefit until payment has been made as hereinbefore provided. Seller shall be furnished with Insurance Certificate before tanker starts loading.

The loading of the tanker shall take place under the supervision of an expert or agent appointed and paid by Buyer, who shall ascertain the quantity and quality of the product, in conjunction with Seller's representative, and in event of any difference arising between them regarding quantity or quality, they shall settle the same at loading port by calling in an arbitrator, whose decision shall be final and binding upon both parties, and the gallonage or weight so ascertained shall be the invoice and B/L gallonage or weight of cargo. The quality of the product must be finally determined by Buyer's agent prior to delivery to tanker.

Inspection

For the purpose of agreeing on the gallonage or weight of product loaded Buyer's representative shall be allowed every facility for taking measurements and temperature of the oil in Seller's tanks, both before and during and after the pumping, and on completion of loading Buyer's representative shall furnish Seller with a certificate signed jointly with Seller's representative setting forth the quantity and quality loaded, which certificate shall be accepted by Buyer and Seller as conclusive evidence of the quantity and quality of the cargo shipped.

Should Buyer fail to appoint an agent or expert for supervising the loading by the time the Captain declares his readiness to load, Seller is to proceed with the loading of the vessel and the weight or gallonage and quality as ascertained and certified by its representative shall be accepted by Buyer as the B/L and invoice, weight and quality.

Messrs. .... are hereby appointed Buyer's agents and inspectors.

It is agreed that if because of accident to ship or machinery the tanker or tankers named (or substituted) should not arrive at loading port within the period or periods hereinbefore mentioned, then in such case the period or periods fixed for the arrival of the tanker or tankers shall be extended for such reasonable time as may be warranted by the special conditions applying to each case and no charge shall be made by Seller, for storage, insurance or interest because of delay in delivery.

General

In every other case of delay, however, all such charge for storage, insurance and interest shall apply on basis of current rates, but it is expressly understood that Seller shall be under no obligation to furnish such storage and/or accommodations at any price unless the same be entirely convenient to it.

If the Seller is prevented, wholly or in part, from fulfilling all or any part of this contract, because of strikes, fires, or any other causes beyond its control, then and in that event it shall be at liberty to suspend the terms and conditions hereof for a reasonable period, based upon the delay occasioned by the happening of the causes aforesaid, and no liability for damages shall attach to such suspension. Under no circumstances shall Seller be liable to Buyer for any consequential damages for non-delivery hereunder or for any damages for such non-delivery, except the difference (if any) between the open market price (if higher) for like quantity and quality Atlantic seaboard or Gulf ports with proper freight differentials at time specified for delivery and the price provided by this contract.

In the event of the imposition of any and all internal revenue taxes, war taxes, import or export duties, tonnage or other taxes or charges (except all taxes and charges actually in effect when the price herein was quoted) hereafter effective and levied by governmental authority, directly or indirectly, upon the commodity herein sold, its production, manufacture, or sale, Buyer shall assume payment thereof.

In event the Government of the United States of America prohibits export of the product herein specified no liability attaches for failure of Seller to make delivery.

This contract is not assignable by Buyer, except with the consent of Seller in writing.

Each shipment hereunder shall be treated as a separate contract and may be recovered for as such, but if Buyer be in default at any time with respect to any of the terms of this or any other contract with Seller, then at any time during the continuance of such default, Seller, without prejudice to any other legal remedy, may at its option treat any such default as final refusal to accept further shipments hereunder, and cancel the contract.

In case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may decline to make further shipments except upon receipt of security satisfactory to Seller or for cash before shipment, and so advise Buyer.

It is further mutually agreed that Buyer assumes all risks and liability for results obtained by the use of material covered by this contract in manufacturing processes of Buyer or by the use of said materials in combination with other substances by Buyer.

Arbitration

All controversies which may arise between the parties hereto with respect to the application, construction and interpretation of this contract, or the rights of the parties hereunder, except as to quantity and quality of cargo shall be promptly submitted to and determined by arbitration under the Arbitration Law of the United States provided for by Act of Congress approved February 12th, A.D. 1925.

The arbitration board for such purpose shall consist of three arbitrators; one arbitrator shall be named by ...., a second by ...., and the two arbitrators so chosen, shall, within ten days after their selection, choose a third, and the decision of any two of the three so chosen shall be final and binding upon the parties hereto. In event that the two arbitrators named by .... and .... shall not agree within ten days upon a third, such third arbitrator shall be chosen by the Secretary of the American Petroleum Institute upon the application of either party in writing within fifteen days from date of application.

It is mutually agreed that the following words unless otherwise specifically stated as used in this contract shall, for the purpose of construing the true intent of this contract, have the following meanings:

TON: A long ton of 2,240 pounds.

GALLON: The "American gallon" of 231 cubic inches, at standard temperature of 60° F.

BARREL: A barrel of 50 "American gallons."

TANKER: This word shall be construed to mean Tank Steamship and when used in the singular shall be construed to include the plural also when two or more tankers are nominated by Buyer to take delivery hereunder.

GRAVITY: This word shall be construed to mean the A.P.I. Gravity of the oil or product at 60° F., the relationship to true specific gravity at 60° being as follows:

$$\text{True Specific Gravity } \frac{60^\circ}{60^\circ}\text{ F} = \frac{141.5}{131.5 + {}^\circ\text{A.P.I.}}$$

This contract shall not be deemed to be effective or binding upon Seller until accepted at Seller's executive office at Philadelphia, either by letter or telegram, or by signature of an executive officer of Seller hereon.

Final Acceptance by Seller and Place of Contract

It is mutually agreed that this Contract is made in the City of Philadelphia, in the State of Pennsylvania, United States of America, and shall be construed in accordance with the laws and decisions of the Courts of the State of Pennsylvania, United States of America, and shall at the same time be subject as herein provided to the provisions of the Act of Congress of the United States of America, approved February 12th, A.D. 1925.

IN WITNESS WHEREOF, the Buyer and Seller have executed this contract at Philadelphia, Pennsylvania, as of this................

............................day of .... A.D. 192...

Witness at Signing:

.... } (as to Seller)
....

.... } (as to Buyer)
....

THE ATLANTIC REFINING COMPANY
By..............................
Sales Agent
(Buyer)..............................
By..............................

Accepted at Executive Office of
The Atlantic Refining Company
at Philadelphia
By
....................................*Vice-President*

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Foreign trade